

COURT OF COMMON PLEAS

HAMILTON COUNTY, OHIO

- - -

STATE OF OHIO, :

Plaintiff. :

vs. :Case Number B1003262

RUBEN JORDAN, :Appeal Number C1100833

Defendant. :Volume I of X

- - -

TRANSCRIPT OF PROCEEDINGS

- - -

APPEARANCES:

Seth S. Tieger, Esq.

Megan E. Shanahan, Esq.

On behalf of the State of Ohio.

William P. Whalen, Jr., Esq.

Amy R. Williams, Esq.

On behalf of the Defendant.

BE IT REMEMBERED that upon the Jury

Trial of this cause, on January 10, 2011, before

the Honorable NADINE L. ALLEN, a judge of the

said court, the following proceedings were had,

to wit:

1 MORNING SESSION, January 10, 2011

2 THE COURT: Okay. Regarding the
3 matter of Ruben Jordan. Presently it's
4 on Case Number B1003262. State vs. Ruben
5 Jordan. At this time, Counsel, what we
6 are going to ask the bailiff to do is we
7 would like to call the Jury Commission
8 and preserve 30 first-week jury members.
9 We would like to do that now. And we
10 would like to have them sent to an early
11 lunch, which will be now, and we are
12 going to commence this jury at 1:00.
13 Counsel are present. State your names.

14 Seth Tieger for the State. We
15 have -- State? I mean, I'm sorry --
16 yeah, for the State.

17 MR. TIEGER: Seth Tieger and Megan
18 Shanahan.

19 THE COURT: For the defendant?

20 MR. WHALEN: Bill Whalen.

21 MS. WILLIAMS: Amy Williams.

22 THE COURT: Ms. Williams, are you
23 assigned on as designated counsel yet?

24 MS. WILLIAMS: I have not. She
25 said she was going to type me up

1 something.

2 THE COURT: We are going to ask
3 that now for the record, Counsel is
4 asking in this matter, you would like to
5 have jury questionnaires right now?

6 MR. WHALEN: Yes.

7 THE COURT: So we are going to
8 ask -- we get the jury questionnaires and
9 we'll start this jury proceeding at
10 1:00 p.m. this afternoon, and the jury is
11 to be collected, preserved and sent to
12 lunch. Select 30 first-week jurors.

13 BAILIFF: Preserve.

14 THE COURT: Preserve them right now
15 and then send them to lunch and tell them
16 they are going to be back to the jury at
17 one, not here, we'll go up and get them.
18 Okay. 1:00 p.m. to return to the Jury
19 Commission, and we'll pick them up.

20 We would like to have your
21 questionnaires right now, Counsel needs
22 their questionnaires now. Okay. Did
23 that cover everything we were discussing,
24 Counsel?

25 MR. TIEGER: I think that sounds

1 good, Judge.

2 THE COURT: Okay. All right. And
3 so let us wait until you --

4 MR. TIEGER: We'll just wait here
5 until --

6 THE COURT: Okay. That might take
7 a while.

8 (Luncheon recess.)

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AFTERNOON SESSION, January 10, 2011

THE COURT: I'm going to ask persons on this side of the room seated in the back to move to the opposite side of the room because we are going to use the jury. No, ma'am. Ma'am, you have to move on the other side also.

MR. WHALEN: She works for me.

THE COURT: She can stay because she's in front of the bar there. So I'm going to ask, Counsel, you ready to proceed now?

MR. TIEGER: Yes, Your Honor.

MS. SHANAHAN: Yes.

THE COURT: Okay. Bring in the jury.

MR. BRENNER: All rise for the jury.

(The jury entering the courtroom at 1:15 p.m.)

THE COURT: And we have them seated. All right. Is everyone seated? Now, in order -- I think there is some people that got out of order a little bit. You may all be seated. Where is

1 he? why is he standing up in the back?

2 okay. All right.

3 Ladies and gentlemen of the jury,
4 good afternoon. I am Judge Nadine Allen.
5 I will be presiding over this trial. You
6 have been summoned as prospective jurors
7 in a case involving the State of Ohio vs.
8 Ruben Jordan, the defendant, in this
9 case.

10 Service as a juror is one of the
11 most important functions and part of a
12 democracy that we enjoy in the United
13 States. It's one of the most valuable
14 civic duties that you'll ever be asked to
15 perform.

16 So trial by jury is what we possess
17 in the United States. The preservation
18 of this right is strengthened by your
19 willingness to respond to the call for
20 juror duty. So we appreciate you already
21 for just coming in here today, for
22 getting dressed, finding transportation,
23 arriving on time and being here right
24 now. We appreciate every bit of that,
25 and so do the parties involved in this

1 case.

2 So it is recognized that some of
3 you might be making a sacrifice although
4 we will be paying for parking. I believe
5 the fee should cover parking. But on
6 behalf of the Court and the community, I
7 do want to commend you, and I want to
8 thank you right now for being here at
9 this very important moment in this trial.

10 What a jury trial begins with is
11 the selection of jury. But before I do
12 that, I would like to introduce the
13 parties who will be taking part in this
14 case today. The attorneys for the State
15 of Ohio are? Would you stand up. Seth
16 Tieg (sic).

17 MR. TIEGER: Good among everyone.
18 Good afternoon.

19 THE COURT: And also Megan
20 Shanahan.

21 MS. SHANAHAN: Good afternoon,
22 everyone.

23 THE COURT: And they will be
24 referred to as the prosecutor in this
25 case. The attorney for the -- for the

1 defendant are Mr. William Whalen, would
2 you stand?

3 MR. WHALEN: Good morning -- or
4 good afternoon.

5 THE COURT: And also Amy Williams.

6 MS. WILLIAMS: Good afternoon.

7 THE COURT: The defendant, Ruben
8 Jordan, is seated by attorney Amy
9 Williams, and they may be referred to
10 throughout this trial as the defense.
11 The words attorneys, the law and counsel
12 are all interchangeable. And references
13 to the Court usually means to me as a
14 judge or something that this Court is
15 doing.

16 I would like to introduce the
17 courtroom, my staff, my bailiff Dee-Dee,
18 just raise your hand today because she
19 has a little foot/ankle injury right now,
20 and she will help with the coordination
21 of courtroom activities and see that your
22 needs are met. And, obviously, also you
23 have already met Mr. Scott Brenner, who
24 is also my bailiff, acting as bailiff in
25 these proceedings.

1 I'm going to administer the oath
2 and also the clerk, they maintain
3 official court documents. And now I'm
4 going to roll call to make sure we have
5 everybody in the right place and I'm
6 going to administer your oath of office.
7 Leon Rozier. Plus, I want to get the
8 proper pronunciation.

9 PROSPECTIVE JUROR ROZIER: Rozier.

10 THE COURT: Rozier.

11 PROSPECTIVE JUROR ROZIER: Rozier.

12 THE COURT: Is number one. And
13 Lena McKinney and Beverly Messerschmitt.

14 PROSPECTIVE JUROR MESSERSCHMITT:
15 Yeah. Messerschmitt, yes.

16 THE COURT: Kalisha Williams.
17 Carmen McKeehan.

18 PROSPECTIVE JUROR MCKEEHAN: Yes.

19 THE COURT: Brian Fitzgerald.
20 Janet Binkley.

21 PROSPECTIVE JUROR BINKLEY: Yes.

22 THE COURT: Sally Coffman. Michael
23 Smith. Is there another way to pronounce
24 that?

25 PROSPECTIVE JUROR COFFMAN: No.

1 THE COURT: Okay. That was a
2 little attempted humor there. Catherine
3 Heintz, Heintz.

4 PROSPECTIVE JUROR HEINTZ: Heintz.

5 THE COURT: Heintz.

6 PROSPECTIVE JUROR HEINTZ: Yes.

7 THE COURT: Christine Bessey.

8 PROSPECTIVE JUROR BESSEY: That is
9 correct.

10 THE COURT: And Michael Burke.

11 PROSPECTIVE JUROR BURKE: Yes.

12 THE COURT: All right. We said the
13 names properly. We do have some
14 prospective jurors. I think I will call
15 their names too so we don't forget to do
16 that. Number 13, where are you located?
17 Are we in the right seat? Number 13.

18 MR. TIEGER: Judge, I don't know if
19 they know their numbers.

20 THE COURT: They may not be on
21 right numbers, just have them get seated,
22 we are going to do this this way. Thirteen,
23 so that you know, Number 13 is Dorothy
24 Spencer, correct? Ms. Spencer. Okay.
25 Number 14, raise your hand. David Burck,

1 Number 14. Okay. David Burck, you're
2 Number 14. Where are you? There you
3 are. Number 14, so that we know. Gary
4 Obst. Obst is that the right
5 pronunciation?

6 PROSPECTIVE JUROR OBST: Obst.

7 THE COURT: Obst. You're Number
8 15. Carol Krieg, you are 16. Did I say
9 that right?

10 PROSPECTIVE JUROR KRIEG: Hum.

11 THE COURT: Sherri Kemper, Number
12 17. Sarah Lavelle.

13 PROSPECTIVE JUROR LAVELLE: Yes.

14 THE COURT: How do you say that?

15 PROSPECTIVE JUROR LAVELLE:
16 Lavelle is correct.

17 THE COURT: Gregory Hand, you are
18 Number 19. Christine Bernhard, you are
19 20.

20 PROSPECTIVE JUROR BERNHARD:
21 Bernhard. Bernhard.

22 THE COURT: Okay. Bernhard.
23 Jessie Ricketts, Number 21. Christopher
24 Powers, you're number 22. Scott Shelton,
25 you are Number 23. Edward Cisko, you're

1 number 24. Jerry Drury, you're number
2 25. Edward Korb, you are number 26.
3 Richard Cross, you are Number 27. Dejuan
4 Sheffield, you're number 28. Did I say
5 that right?

6 PROSPECTIVE JURFOR SHEFFIELD: Yes,
7 ma'am.

8 THE COURT: Erika Kellogg, you're
9 number 29. Amanda Decenso, number 30.
10 And did I say your name correct?

11 PROSPECTIVE JUROR DECENSO: Yes.

12 THE COURT: Okay. Then so we now
13 have all the jurors. Remember your own
14 number. Okay. Because at this time I
15 would like for you to stand so I can
16 administer the oath to you. Prospective
17 jurors, you all stand up, please, and
18 raise your right hands.

19 (The prospective jurors sworn.)

20 THE COURT: You may be seated.
21 Thank you. I have a couple more
22 instructions to state, and then we will
23 move to the questioning.

24 So that you know what you're doing
25 here today, the State of Ohio and the

1 defendant are entitled to jurors who will
2 approach this case with open minds, and
3 agree to keep their minds open until a
4 verdict is reached. Jurors must be as
5 free as humanly possible from bias,
6 prejudice and sympathy, and must not be
7 influenced by any preconceived ideas as
8 to the facts or the law. You are each
9 undoubtedly qualified to serve as jurors.
10 There may be something, however, that
11 could disqualify you in this particular
12 case, and we will get into details in a
13 moment.

14 At this time the Court and counsel
15 will ask you questions. These questions
16 are not designed to pry into your
17 personal affairs, but to discover if you
18 have any knowledge of this case, if you
19 have any preconceived opinion that you
20 cannot lay aside, or if you have had any
21 experience that may cause you to identify
22 yourself with either party. If the
23 answer to a question asked by either the
24 attorneys or myself would cause any of
25 you embarrassment, you may raise your

1 hand and we will approach, let you come
2 here at sidebar and you can answer that
3 privately. And we will do so at the
4 sidebar, that bench, and do a white noise
5 machine so that nobody can hear the
6 responses.

7 If you cannot hear the question
8 asked, please indicate by raising your
9 hand so that I may speak louder or more
10 clearly, or so that the parties can speak
11 louder.

12 The questions I'm going to ask will
13 be directed to all of -- they are
14 directed to those seated in the jury box
15 as well as those seated in the back of
16 the courtroom.

17 Whether you are in the jury box or
18 the back of the courtroom, please raise
19 your hand if you have an answer to any
20 questions that are asked of you.

21 Although I have a seating chart here we
22 have already stated your name but we ask
23 you to state your name for the purpose of
24 the record. When you give an answer, if
25 you would state your name to make sure

1 that you are the right person. Sometimes
2 we hear a voice and we don't know where
3 it's coming from. That's for the record,
4 also for a potential Court of Appeals or
5 transcripts to some other higher court.

6 Each prospective juror has the
7 right to request an in camera or private
8 hearing, and I already mentioned that.
9 In this regard, the Court is not required
10 to hold an in-camera hearing unless the
11 information that is contained in the
12 response to the question put to the
13 perspective juror is requested by any
14 person. All right.

15 Now, the defendant in this case,
16 Ruben Jordan, has been charged with the
17 offenses of aggravated murder with
18 specification and also having a weapon
19 while under a disability. The details of
20 this charge are the subject of our
21 inquiry in this trial, and we are not
22 going to give any facts yet at this time.
23 I believe the attorneys are going to
24 cover that in their questioning. That
25 will come out during questioning and

1 during opening statements.

2 At this time, I tend not to ask a
3 lot of questions of the jury because I
4 believe the jury may feel slightly
5 intimidated, or think they need to give a
6 right answer because the Judge is asking
7 the question, and we do want you to --
8 instead to feel very comfortable with
9 what you're about to say what your
10 answers would be and because lawyers tend
11 to ask the same thing anyway.

12 So what I'm going to do now, I'm
13 going to turn this over to my esteemed
14 counsels, all four of them, and to have
15 them commence with what we are going to
16 call the voir dire process. You do
17 understand that there are -- there is
18 such a thing as peremptory challenges and
19 that each side does have four peremptory
20 challenges that they may exercise. What
21 we do not want you to do is take that
22 personally and feel like you have flunked
23 something or failed as a person. In
24 fact, you've probably seen a tape at the
25 Jury Commission Office. And it's

1 because, again, there may be a tendency
2 to favor one side or the other, or they
3 feel for some reason that you are not as
4 unbiased or have sympathy or any reason,
5 but it's not going to be disclosed. So,
6 you don't need to think or worry about
7 what the reason is, but you are
8 definitely qualified to serve on a jury,
9 and we will tell you where to go after
10 that.

11 There may be reasons why you may be
12 excused because for cause because you
13 indicated that you're unable to, no
14 matter what, you're unable to make a
15 decision in this particular case. And
16 you can state that, and there is a
17 process for determining that also.

18 At this time, there may be also
19 from time to time where there might be
20 conferences here on the sidebar. There
21 is a variety of legal reasons why that
22 may be happening. Mainly because we
23 don't want something improper to be said
24 before the jury, because once something
25 is stated it's been stated. It might be

1 an improper question. It could be
2 something highly prejudicial, or the
3 wrong evidence. There are right legal
4 reasons and he want you to be able to
5 evaluate the right evidence that you
6 should be hearing, however you may be
7 receiving in this case.

8 So I usually will turn on the white
9 noise machine and ask that you stand up
10 and talk among yourselves about anything
11 except this case. Okay.

12 At this time, Mr. Prosecutor, you
13 may proceed.

14 MR. WHALEN: Your Honor, could we
15 approach the bench for a moment --

16 THE COURT: All right.

17 MR. WHALEN: -- before we start.

18 THE COURT: Okay.

19 (Unreported sidebar conference.)

20 THE COURT: All right then. We are
21 ready to proceed, and we have both
22 prosecutors and both defense attorneys
23 may be asking you questions, too. And
24 they shouldn't be redundant, they're
25 going to try not to be, and at this time

1 you may start, Mr. Tieger.

2 MR. TIEGER: Thank you, Judge. As
3 everybody is told, my name is Seth
4 Tieger. This is Megan Shanahan. We are
5 going to be presenting the case for the
6 State of Ohio over the next few days. I
7 don't recognize anybody here. I don't
8 know if anybody recognizes me or Ms.
9 Shanahan. No.

10 Do any of you know -- Joe Deters is
11 our boss, who's the elected prosecutor.
12 Do any of you know Mr. Deters or any
13 other prosecutor at all? Your name, sir?

14 PROSPECTIVE JUROR HAND: Greg Hand.

15 MR. TIEGER: Mr. Hand, kind of the
16 way I think this is going to work is that
17 it's real hard to talk to you.

18 THE COURT: Let me turn that -- no,
19 I'll just turn the volume down.

20 MR. TIEGER: Thanks, Judge.

21 THE COURT: There.

22 MR. TIEGER: It's real hard to talk
23 to you folks, and then this group at one
24 time, so basically I think what we're
25 going to ask you to do, Mr. Hand, is I

1 appreciate you raising your hand, letting
2 us know, and if there is an answer to any
3 questions, if you can just raise your
4 hand and Ms. Shanahan and I will make
5 note of it. And Mr. Whalen and
6 Ms. Williams will make a note of it and
7 then as this process goes, I think you'll
8 see whether it's later on today or will
9 come back. Certainly if ever you will be
10 excused and certainly if you will stay
11 and then certain of you, in the order
12 that we talked about, starting with
13 Ms. Spencer, Mr. Burke and so forth will
14 be moved up into this panel. And then as
15 you are -- we would already, we are doing
16 our homework, have a note of who raised
17 their hand and what it's about and
18 question you about that at that point.

19 Um, it looks like all of you are
20 first-day jurors, is that fair to say?

21 PROSPECTIVE JURORS: Uh-huh.

22 MR. TIEGER: And so none of you
23 would have really done a jury, this would
24 be your first one on your tour of duty.
25 It looks like some of you have sat on

1 juries in the past. And when we start to
2 talk to you I get to ask you about that
3 at the time. But the basic rule is
4 that -- and the reason this has taken a
5 little bit of time is that I don't know
6 if you remember filling out these
7 questionnaires. When you do there is a
8 whole process in effect to where they
9 make copies of those questionnaires of
10 everybody, actually all the jurors and
11 then a copy is given to Ms. Shanahan and
12 myself. A copy is given to Mr. Whalen
13 and Ms. Williams, and a copy is given to
14 Judge Allen. So we took a few minutes to
15 review those questionnaires before we
16 talked to you so everybody would have a
17 copy of your questionnaires.

18 As far as jury service, just real
19 briefly, I know it's a two-week process.
20 And just by way of scheduling, and Judge
21 Allen can correct me if I'm wrong here,
22 that I think normally we would start, the
23 Court has other cases on its dockets, a
24 lot of other cases, and those usually
25 take place in the morning as well, so

1 we'd probably be starting in the ten to
2 10:30 range every day, I think, and then
3 I think we'd normally end the day
4 probably around four or so.

5 THE COURT: Not past five.

6 MR. TIEGER: Sometime between the
7 four, 4:30 range. And then there would
8 be a time for lunch. And then during
9 that time, there probably would be a
10 couple ten to 15-minute breaks as well to
11 refresh yourself or just take a short
12 break. Is everybody okay with that type
13 of schedule?

14 PROSPECTIVE JURORS: Uh-huh.

15 MR. TIEGER: And the way I'm kind
16 of understanding this is that normally
17 what we ask is that with this trial, as
18 you heard, it's an aggravated murder
19 trial. So it's not going to be a short
20 trial, it will go into next week for
21 sure. We are thinking it's going to be
22 over probably the middle -- towards the
23 end of next week. I guess there is
24 always a very, very small chance it could
25 go into that third week. Is everybody

1 okay if it does that? Does anybody have
2 travel plans or any reason they couldn't
3 be here? I guess, it would be Monday,
4 the 24th, or let's see, Mr. Burke.

5 PROSPECTIVE JUROR BURKE: Yes.
6 Going in the third week would be a
7 problem for me with work.

8 MR. TIEGER: Okay. So you would
9 have to end your service by the 21st?

10 PROSPECTIVE JUROR BURKE: I could
11 go to the Monday of the third week, but
12 not past that.

13 MR. TIEGER: Okay. And,
14 Ms. Williams, you raised your hand as
15 well?

16 PROSPECTIVE JUROR WILLIAMS: I'm
17 not getting paid.

18 MR. TIEGER: Okay. That is a
19 hardship. I mean, that's very important
20 to everybody really. Can you tell me
21 about that a little bit?

22 PROSPECTIVE JUROR WILLIAMS: The
23 job -- my job requires that you come to
24 jury duty but they don't pay you.

25 MR. TIEGER: Okay. So if it went

1 into extra time that would be a hardship
2 to you and your family?

3 PROSPECTIVE JUROR WILLIAMS:

4 Uh-huh.

5 MR. TIEGER: Okay. Mr. Fitzgerald?

6 PROSPECTIVE JUROR FITZGERALD: I
7 have a business trip planned for the
8 third week.

9 MR. TIEGER: And what day would
10 that be?

11 PROSPECTIVE JUROR FITZGERALD: I
12 believe Wednesday or Thursday.

13 THE COURT: We are going to ask you
14 to use your stage voice, if you don't
15 mind, in responding. Not the inside
16 voice, but your stage voice.

17 MR. TIEGER: Everybody back here
18 pretty much okay? Again, we are -- this
19 is going to be over next week, but you
20 hate to promise that and if it doesn't
21 you don't deliver on it, so there is a
22 small chance it could go into that last
23 week. I know we could talk about this a
24 little bit and everybody is always scared
25 of the snow. And as I said, we are

1 probably going to stop around somewhere
2 between four and 4:30 today. And as a
3 result, we may not have the jury picked
4 today because of that, we really can't
5 start up again until all 30 of you are
6 present. And if there is a weather
7 emergency tomorrow and 28 of you make it
8 and two can't, we really can't do
9 anything.

10 So as a result, I think we are
11 going to maybe try to keep an eye on the
12 weather forecast the next couple hours.
13 But the plan is possibly to take tomorrow
14 off because it wouldn't be right to ask
15 you to come down. It's enough to ask you
16 to do what you're doing and sit on a
17 murder trial, but to ask you to come down
18 in the middle of a snow storm and then go
19 through this and then have all the
20 problems getting here and getting home,
21 we may take tomorrow off and ask you to
22 come back wednesday.

23 The other issue is that I think
24 there is a conflict that one of us has
25 Thursday morning. So on Thursday we

1 wouldn't start until probably 12 to 1:00
2 in the afternoon. And then Monday of
3 next week is Martin Luther King Day where
4 the courthouse is closed. So there are
5 definitely a few days that we are not
6 going to be in session.

7 other than that, which is pretty
8 much, basically what we ask of jurors is
9 that we have everybody's full attention
10 on a case. And by that, I always mean,
11 does anybody have a medical issue, a work
12 issue, a child issue or any kind of
13 family issue that would prevent them from
14 sitting as a juror on this case with the
15 schedule that we just talked about?

16 For instance, can everybody hear
17 okay, as Judge Allen talked about?
18 Because it's pretty frequent that you get
19 a juror with a hearing problem that
20 really can't make out what, more
21 importantly, the witnesses are saying.
22 Is everybody okay with hearing?

23 Can everybody sit for several hours
24 at a time? I know there is a lot of
25 people with bad backs. Let's see, Ms --

1 PROSPECTIVE JUROR KRIEG: Krieg.

2 MR. TIEGER: Krieg. Do you have
3 a -- is it a --

4 PROSPECTIVE JUROR KREIG: I have a
5 couple of bad discs and spinal stenosis.

6 MR. TIEGER: Okay. And I know that
7 hard benches that we're so nice to let
8 people sit on for court are pretty
9 unforgiving, but when you get up here
10 they would be a lot more comfortable.
11 Would you be okay with that, sitting and
12 listening for a couple hours and there
13 would also be a probably ten to 15-minute
14 comfort break, or so to speak, and then
15 you could get back up, and that would be
16 our basic schedule other than an hour
17 lunch.

18 PROSPECTIVE JUROR KREIG: Probably.

19 MR. TIEGER: Okay. Thank you,
20 Ms. Krieg.

21 Does anybody have like a doctor's
22 appointment? And I know it sounds
23 strange, but we do ask this because
24 sometimes a juror will be like, well, I
25 can't work Friday at all, I've got this

1 appointment. But nobody has got any
2 planned doctor's appointments?

3 Does anybody have other than the
4 people that we just talked about, any
5 work issues where they have got a meeting
6 on a certain day at a certain time that
7 they cannot miss?

8 And in terms of meeting your kids
9 at the bus or a sick relative or somebody
10 that you have got to take care of, is
11 everybody okay with the schedule that we
12 just talked about?

13 Yes, sir?

14 PROSPECTIVE JUROR SHEFFIELD: I
15 have a --

16 MR. TIEGER: Can you tell us your
17 name?

18 PROSPECTIVE JUROR SHEFFIELD: Djuan
19 Sheffield.

20 MR. TIEGER: Okay. Mr. Sheffield.

21 PROSPECTIVE JUROR SHEFFIELD: I
22 have to take my grandfather to dialysis
23 on Mondays, Wednesdays and Fridays.

24 MR. TIEGER: And what time does he
25 need to go to dialysis?

1 PROSPECTIVE JUROR SHEFFIELD: I
2 think Monday is four, and then Tuesday
3 it's 11 -- I mean Wednesday it's 11, and
4 Friday it's four.

5 MR. TIEGER: Are you the only
6 person that does that for your
7 grandfather?

8 PROSPECTIVE JUROR SHEFFIELD: My
9 sister, she can when my mom is at home,
10 but then she just had a newborn so we
11 would probably have to work something out
12 when I get home.

13 MR. TIEGER: So it would be today
14 at four?

15 PROSPECTIVE JUROR SHEFFIELD:
16 Uh-huh.

17 MR. TIEGER: You would have to be
18 out of here by four to do that?

19 PROSPECTIVE JUROR SHEFFIELD: My
20 mom gets off at three, so I would think
21 that she can take him today.

22 MR. TIEGER: And then Wednesday at
23 11?

24 PROSPECTIVE JUROR SHEFFIELD:
25 Wednesday at 11, and Friday at four.

1 MR. TIEGER: I know Wednesday at 11
2 is gonna be a problem. Let's see, where
3 are we?

4 THE COURT: He's Number 28.

5 MR. TIEGER: Okay. Maybe we could
6 talk about that a little later,
7 Mr. Sheffield. Thank you for bringing
8 that up.

9 PROSPECTIVE JUROR SHEFFIELD: Thank
10 you.

11 MR. TIEGER: Ma'am, can you state
12 your name?

13 PROSPECTIVE JUROR SPENCER: Dorothy
14 Spencer.

15 MR. TIEGER: Okay. Ms. Spencer.

16 PROSPECTIVE JUROR SPENCER: Did you
17 read my paper that I filled out?

18 MR. TIEGER: I know I have. Let me
19 go through it real fast.

20 PROSPECTIVE JUROR SPENCER: Okay.

21 MR. TIEGER: Yes. Is there
22 anything specific about that with regard
23 to the scheduling that you would like to
24 talk about? About something else?

25 PROSPECTIVE JUROR SPENCER: Yes.

1 MR. TIEGER: Okay. We'll talk
2 about that later.

3 PROSPECTIVE JUROR SPENCER: All
4 right.

5 MR. TIEGER: Thank you. Let's see,
6 Mr. Rozier.

7 PROSPECTIVE JUROR ROZIER: Yes. I
8 have to take my mother to the doctor
9 January 19.

10 THE COURT: We can't -- can you
11 keep your December the --

12 MR. TIEGER: November -- he said
13 January the 19th, which would be a week
14 from Wednesday.

15 PROSPECTIVE JUROR ROZIER: Uh-huh.

16 MR. TIEGER: At what time?

17 PROSPECTIVE JUROR ROZIER: 9:45.

18 MR. TIEGER: In the morning?

19 PROSPECTIVE JUROR ROZIER: Yes.

20 MR. TIEGER: Okay. Do you know how
21 long that appointment is going to take?

22 PROSPECTIVE JUROR ROZIER: Going to
23 the clinic, it could take a couple, maybe
24 two or three hours.

25 MR. TIEGER: So you would not be

1 available --

2 PROSPECTIVE JUROR ROZIER: The
3 19th.

4 MR. TIEGER: -- the 19th. At least
5 the morning of the 19th.

6 PROSPECTIVE JUROR ROZIER: Right.

7 MR. TIEGER: Maybe all day on the
8 19th depending on how it goes?

9 PROSPECTIVE JUROR ROZIER: Right.

10 MR. TIEGER: Okay. Thank you,
11 Mr. Rozier. It sounds like an auction,
12 you yawned, so I won't call on you,
13 Ms. Williams.

14 Now, Judge Allen kind of talked
15 about this a little bit, and there is
16 going to be a lot of questions from
17 myself and Mr. Whalen, Ms. Williams. And
18 the purpose is to get a fair and
19 impartial jury. And I know it sounds
20 like we're gonna kind of drum that into
21 you, that we're looking for a fair jury
22 to the State of Ohio, who Ms. Shanahan
23 and I represent, and also for Mr. Jordan
24 in this case.

25 So if there is anything in your

1 background or belief system that you
2 think would prevent or impair you from
3 being fair in this particular case, now
4 is the time to let us know because really
5 until you -- you really don't have a
6 speaking role in this trial so that you
7 need to tell us now no matter like how
8 insignificant you think it is. Because
9 once you're chosen, and you're thinking
10 maybe I should have told them this or
11 that, it's really going to kind of be too
12 late.

13 So anything you think that we need
14 to know about you that will prevent you
15 from being fair? Let's see, Mr. Smith?

16 PROSPECTIVE JUROR SMITH: What if
17 you heard the case on the media?

18 MR. TIEGER: Absolutely. That was
19 my next question actually. I was going
20 to tell you a little bit about the case.
21 I don't know whether any of you heard
22 about it. It happened a while back.

23 PROSPECTIVE JUROR SMITH: I did.

24 MR. TIEGER: Let me read the
25 witness list first, and then I'll tell

1 you a little bit about the case just to
2 make sure it's the same one we're talking
3 about. Do you recognize the name?

4 PROSPECTIVE JUROR SMITH: Yes.

5 MR. TIEGER: Mr. Jordan?

6 PROSPECTIVE JUROR SMITH: I heard
7 about it this morning.

8 MR. TIEGER: You heard about it on
9 the news this morning?

10 PROSPECTIVE JUROR SMITH: Well, I
11 heard the past case and then I heard this
12 morning news.

13 MR. TIEGER: So you follow the
14 news?

15 PROSPECTIVE JUROR SMITH: Yes,
16 local events occurring.

17 MR. TIEGER: Okay. Let me just
18 read some of these witnesses off. Police
19 Officer Rock. These are all Cincinnati
20 Police. Officer Avant, Ballman, Schare,
21 Sergeant Hunt. There is a Victor Davis,
22 Jr., who's the victim's son. Kenyada
23 Davis, who's the victim's daughter. Dean
24 Shade, Police Officer Fusselman, Police
25 officer Glindmeyer, Police Officer Luke,

1 Police Officer McGuffey; John Heile,
2 who's a ballistic expert at the coroner's
3 lab; Karen Looman and Gretel Stephens,
4 they are both doctors at the coroner's
5 office; Police Officer Odom; William
6 Harry, who's a serologist at the
7 coroner's office; there is a Kenneth
8 Heard, Kareem Gilbert, are potential
9 witnesses in this case.

10 And very briefly, does anybody
11 know any of those witnesses at all that I
12 just mentioned?

13 PROSPECTIVE JUROR WILLIAMS: I
14 believe Police Officer Rock.

15 MR. TIEGER: Rock. Okay.
16 Ms. Williams, how do you know Mr. Rock?

17 PROSPECTIVE JUROR WILLIAMS: He
18 patrols the neighborhood I live in.

19 MR. TIEGER: What area of town is
20 that?

21 PROSPECTIVE JUROR WILLIAMS: Fay
22 Apartments.

23 MR. TIEGER: Is that up in -- he
24 was, I know, in District 1, but he's in
25 District 3 now.

1 PROSPECTIVE JUROR WILLIAMS: Well,
2 I never see him.

3 MR. TIEGER: Okay. What do you
4 think of Officer Rock?

5 PROSPECTIVE JUROR WILLIAMS: He's
6 fine with me.

7 MR. TIEGER: Do you think he does a
8 good job?

9 PROSPECTIVE JUROR WILLIAMS: Uh-huh.

10 MR. TIEGER: Do you think he's fair
11 with the people that deserve to be
12 treated fair and maybe hard on the people
13 that don't deserve it? Are you okay with
14 that?

15 PROSPECTIVE JUROR WILLIAMS: Uh-huh.

16 MR. TIEGER: Okay. Thank you,
17 Ms. Williams.

18 PROSPECTIVE JUROR WILLIAMS: Uh-huh.

19 MR. TIEGER: Very briefly, just
20 like Mr. Smith, to make sure we are
21 talking about the same case. On
22 October 16th of 2008, a 16-year-old by
23 the name of Kareem Gilbert shot and
24 killed a man by the name of Brian Austin
25 in a senseless street murder. That's the

1 only way to describe it. On Elder, near
2 the corner of Elder and Republic, the
3 Findlay Market area.

4 The only eyewitness was a guy by
5 the name of Victor Davis, who gave a
6 statement to the police identifying
7 Kareem Gilbert as the shooter. Then
8 around two weeks later, on October 31st
9 of 2008, the allegation is that Ruben
10 Jordan, who's the father of Kareem
11 Gilbert -- Kareem Gilbert, if you
12 remember, is the shooter of Brian Austin.

13 The allegation is that the
14 defendant in that case, Kareem Gilbert,
15 his dad shot and killed Victor Davis,
16 basically right on the same corner, to
17 prevent his son from being convicted of
18 the murder of Mr. Austin.

19 Okay. Mr. Smith, is this the case
20 that you heard about?

21 PROSPECTIVE JUROR SMITH: It's the
22 same case but they said it a little
23 differently.

24 MR. TIEGER: Okay. That's one of
25 things that I know Judge Allen will tell

1 you, and even though there is no cameras
2 or reporters in here now, probably during
3 the trial, there will be cameras and
4 definitely Enquirer reporters reporting
5 on this case. So she -- the court will
6 tell you and order you not to read any
7 newspaper accounts of this or watch any
8 TV stories on this because a lot of times
9 the news really doesn't get it exactly
10 right.

11 The basic rule on publicity then is
12 that you have to disregard anything that
13 you may have heard about the case, and
14 base your decision -- what's gonna
15 happen, there will be witnesses sworn in.
16 They will sit in this chair and then tell
17 you what they know, if anything, about
18 the case, and then you'll base your
19 decision on their testimony and then any
20 exhibits that you would get to consider
21 taking in the juror room like photos,
22 documents, things like that.

23 In between the exhibits and the
24 testimony, you will decide whether Ms.
25 Shanahan and I proved our case, that he

1 did it, or we didn't prove our case. But
2 it can't be based on what the media says.
3 Everybody good with that?

4 Other than Mr. Smith, has anybody
5 else heard of this case other than what I
6 just said? It's been a while since it
7 happened. There hasn't been a lot in the
8 media recently on it.

9 Okay. Every case is unique and
10 this is no exception. In a lot of cases
11 the identity of the defendant is known.
12 In that, let's say in a murder trial, the
13 issue is self-defense. The person is
14 saying I did it but I had to do it
15 because I was gonna be killed, or like in
16 a date-rape case, the issue is she and I
17 had sex even though she says it's rape, I
18 say we had sex and she consented, so it's
19 really -- the person who had the sex,
20 it's not in dispute. The dispute is
21 whether there was force or not or whether
22 there was consent.

23 This is not that type of a case.
24 Because while everybody agrees that
25 Victor Davis was murdered, the issue is

1 the identity of the person who did it,
2 the issue in this case. So it's not like
3 a self-defense or something.

4 Other cases rely on like eyewitness
5 identification. Have any of you heard
6 that term? Eyewitness ID, that type of
7 thing. Where, let's say you work at a
8 bank or store, a robber comes in with a
9 gun, sticks it in your face and runs out
10 after they take your money. And then the
11 eyewitness to the crime, whether it's the
12 bank teller or the store clerk says --
13 maybe looks at some photos or something
14 like that, and says that's the person
15 that did it. Have any of you heard of
16 that type of case, an eyewitness
17 identification case?

18 Another type of case relies on what
19 we call physical evidence or scientific
20 evidence. Does anybody here watch CSI,
21 Without a Trace or Criminal Minds? If
22 you could raise your hand, anybody that
23 watches those? I definitely watch those
24 a lot. So Ion TV is on for like four or
25 five hours a night. Did everybody --

1 most people, it looks like, watch those
2 shows.

3 And I don't think I have to tell
4 you that those shows are not -- there is
5 elements of realism, but there is a lot
6 of Hollywood in those. Does everybody
7 understand that primarily that's for
8 entertainment? Because you get a lot of
9 jurors that say, well, why didn't you do
10 it like Criminalist Stokes did it or
11 something like that. Does everybody
12 understand the difference between those
13 TV shows and in the way things really
14 happen in court? Everybody okay with
15 that?

16 This case is like a lot of cases
17 where it's a combination of eyewitness
18 identification and scientific evidence.
19 And it's also statements of the defendant
20 confessing to somebody else that he had
21 done it. So it's kind of a mixture of a
22 lot of different types of cases.

23 And just talking about eyewitness
24 identification cases, would you all agree
25 with me that there is different types of

1 eyewitness ID cases, and one is it's a
2 stranger. The store clerk, the bank
3 teller, a stranger walks in, you have
4 never seen that person before. They come
5 in, they rob you, it's over in like 15
6 seconds, and you're asked to identify
7 somebody that you have never seen before.
8 But that can be difficult to do,
9 especially if time passes, you look at
10 some photos, that looks like him. And,
11 you know, sometimes that does get a
12 little bit questionable.

13 The other type of eyewitness ID
14 case is somebody that commits a crime
15 that you know. They're friends, family,
16 whatever they are, but a crime is
17 committed and you know that person. You
18 knew them before the crime occurred, and
19 you're identifying somebody that you
20 know. Does everybody agree that is a
21 different type of identification?

22 And if it's somebody you know,
23 would you agree that the danger is not
24 really misidentifying them. What you
25 have to do is look at their credibility

1 or believability as to why -- why would
2 that person say that this other person
3 that they know committed a crime? It's
4 obvious that they know who it is. So
5 there is no danger, like you got the
6 wrong guy, but would you look at what's
7 their motive or why would they say that?

8 Ms. McKeehan, could you talk to me
9 a little bit about that?

10 PROSPECTIVE JUROR MCKEEHAN: Why I
11 would look at the background, well, not
12 exactly the background, but what their
13 motive was for saying that because
14 sometimes people lie.

15 MR. TIEGER: Okay.

16 PROSPECTIVE JUROR MCKEEHAN: That's
17 -- I think we have all been in a
18 situation where we know someone is lying.

19 MR. TIEGER: Okay.

20 PROSPECTIVE JUROR MCKEEHAN: So
21 take into account why they are saying
22 what they are saying, what their
23 relationship is with the other person and
24 what they have to gain out of a yes or
25 no.

1 MR. TIEGER: Okay. And I don't
2 want it put you on the spot, but did you
3 have a specific incident in mind where
4 somebody said something about you or
5 somebody that you know?

6 PROSPECTIVE JUROR MCKEEHAN: Yeah,
7 people say things about me all the time.

8 MR. TIEGER: Okay.

9 PROSPECTIVE JUROR MCKEEHAN: Yeah.

10 MR. TIEGER: well, what type of
11 thing would somebody say that you could
12 think of that to -- let us know that
13 people might have said that you did
14 something that you didn't do?

15 PROSPECTIVE JUROR MCKEEHAN: well,
16 I do dog rescue, and quite often someone
17 will say that I made a bad choice in
18 where I put a dog, or that I didn't vet
19 my dog properly or do something when I
20 know I did. And it could be because they
21 didn't like the rescue, or they don't --
22 they have a different belief about dog
23 rescues than we do, or they have
24 different criteria of how they think the
25 dog should be vetted, and it could be

1 just totally wrong, that they are
2 mistaken.

3 MR. TIEGER: Tell me about the dog
4 rescue. What do you do? It sounds like
5 all I do is watch TV, but I watch Animal
6 Planet and they have that on Animal
7 Planet.

8 PROSPECTIVE JUROR MCKEEHAN: It's
9 my hobby. I take dogs that are going to
10 be euthanized and we pull them out of
11 shelters and we get them ready for
12 adoption and then every weekend we have
13 an adoption event where we match the dogs
14 with potential homes.

15 MR. TIEGER: Okay. Ms. Shanahan is
16 starting to like you a lot because she
17 loves dogs, so I know that you just made
18 a friend in Megan. But when you say
19 vetted wrong, what does that mean?

20 PROSPECTIVE JUROR MCKEEHAN: Some
21 people vet their dogs to the t's. I
22 mean, they get their teeth cleaned, and,
23 you know, we do basic shots and basic
24 vetting, but some people go beyond that.
25 You know, they do cosmetic on their dog.

1 They will do, like I said, dentals. They
2 do all kinds of other grooming aspects to
3 the dog. People have different ideas on
4 how far to go.

5 MR. TIEGER: So somebody might say
6 that you did or didn't do something with
7 regard to a dog rescue that you knew that
8 you did everything that you should have
9 done and it was done correctly?

10 PROSPECTIVE JUROR MCKEEHAN: Yes.
11 Yes.

12 MR. TIEGER: Okay. Does anybody
13 have any other thoughts on that?

14 Ms. Coffman, do you have any
15 thoughts on that at all?

16 PROSPECTIVE JUROR COFFMAN: No, I
17 don't. I agree with her.

18 MR. TIEGER: Okay. If somebody
19 came in and that person was known to the
20 person and said that that person did
21 something, you would look at it as
22 Ms. McKeehan said the --

23 PROSPECTIVE JUROR COFFMAN: The
24 reason, why they would say that I would
25 probably -- before I would believe it, I

1 would look into the question why should I
2 believe it.

3 THE COURT: Speak up a little bit.

4 PROSPECTIVE JUROR COFFMAN: I would
5 look into the reason why they said the
6 person said that.

7 MR. TIEGER: Okay. And in this
8 case -- sorry to put you all in a vacuum
9 here. Kareem Gilbert, who is the -- I
10 think he's now probably 18 or so, but at
11 the time he was 16. He's going to
12 testify against his own father in this
13 case. And he was originally charged with
14 the murder of Mr. Austin and Mr. Davis,
15 and then prior to his trial Mr. Gilbert
16 told us, Ms. Shanahan, myself and the
17 Cincinnati Police, that, yes, I did shoot
18 and kill Mr. Austin, I did that. But
19 that I did not shoot and kill Victor
20 Davis. I was there but my father shot
21 and killed Mr. Davis.

22 And in exchange for his cooperation
23 in this case, he pled guilty to being
24 responsible for the death of Mr. Austin,
25 and he received an 18-year prison

1 sentence, and that's an 18-year sentence
2 where you get no credit for good time or
3 lighter sentences or anything. He has to
4 serve a full 18 years in the
5 penitentiary. And in exchange for that,
6 his agreement with Ms. Shanahan and
7 myself and the Cincinnati Police was that
8 he testify truthfully in this case
9 against Mr. Jordan, Mr. Fitzgerald. How
10 do you feel about that?

11 PROSPECTIVE JUROR FITZGERALD: I
12 guess I don't have a -- I don't know how
13 to feel.

14 MR. TIEGER: Okay.

15 PROSPECTIVE JUROR FITZGERALD: The
16 whole thing makes me a little nervous, to
17 be honest with you.

18 MR. TIEGER: Can you tell me why?

19 PROSPECTIVE JUROR FITZGERALD: I've
20 never been in a courtroom.

21 MR. TIEGER: Okay. The whole
22 process you mean. Okay. And I think
23 everybody is super nervous because Ms.
24 Shanahan and I have been doing this for a
25 long time, and you're here, you know,

1 under the bright lights with the court
2 reporter and we're trying to go into, you
3 know, your feelings about things, and it
4 is kind of nerve-racking. And we
5 apologize for that but there is a lot at
6 stake for not only Mr. Jordan but for the
7 family of Mr. Davis and the community in
8 general.

9 But in terms of the witness
10 cooperation, that he could have gotten
11 more time than the 18 years had he gone
12 to trial, in exchange for that sentence
13 and his truthful testimony, he's
14 testifying against his father. Does
15 anybody think or can we talk about, you
16 know, because he could have gotten more
17 time, because there is this so-called
18 plea deal reached with him that they are
19 just not going to buy or believe what
20 he's going to say?

21 Ms. Binkley?

22 PROSPECTIVE JUROR BINKLEY: Yeah, I
23 have no problem with that. And like him,
24 this is all very intimidating right now,
25 but, no, I have no problem with that.

1 MR. TIEGER: Okay. Mr. Rozier?

2 PROSPECTIVE JUROR ROZIER: None at
3 all.

4 MR. TIEGER: Okay. And,
5 Mr. Rozier, could you tell me what your
6 feelings on that were? For instance,
7 when a co-defendant, so to speak, gets a
8 lesser sentence and agrees to testify,
9 obviously, he knows his father, so the
10 danger really isn't in misidentification.
11 It's of maybe does anybody --

12 PROSPECTIVE JUROR ROZIER: Could be
13 that he's loyal to his father.

14 THE COURT: Can you repeat that
15 louder.

16 PROSPECTIVE JUROR ROZIER: I said
17 --

18 THE COURT: And the reason -- wait
19 a minute. The reason we are asking you
20 to repeat or get louder is because the
21 court reporter is faithfully recording
22 every syllable that she hears and that's
23 one of the reasons.

24 PROSPECTIVE JUROR ROZIER: Okay. I
25 just -- what I was saying basically was

1 he got to testify against his father,
2 right? So by him testifying against his
3 father that would make his terms come up
4 lighter.

5 MR. TIEGER: Well, right. He's --
6 there is no turning back from the 18.
7 The 18 is the bottom line what he got for
8 what we say is telling the truth about
9 what actually happened.

10 PROSPECTIVE JUROR ROZIER: But he
11 could be lying still.

12 MR. TIEGER: And that's what I
13 wanted to ask you. Does anybody feel
14 that because Ms. Shanahan and I made this
15 agreement with him that you're going to
16 have a hard time really believing him
17 because of the plea deal that was reached
18 between Ms. Shanahan, myself and
19 Mr. Gilbert?

20 PROSPECTIVE JUROR ROZIER: I
21 wouldn't have a hard time believing it.

22 MR. TIEGER: Okay. But can you
23 elaborate on that a little bit?

24 PROSPECTIVE JUROR ROZIER: Well,
25 pretty tough.

1 MR. TIEGER: Well, what I'm saying
2 is he's going to -- whether it's late
3 this week or early next week, come in
4 here and sit in this chair and tell you
5 that I shot and killed a guy for
6 basically no reason. And I was with my
7 dad when he shot and killed Victor Davis.
8 Now he's going to be an admitted killer,
9 and he's an admitted killer that got an
10 18-year prison sentence. Do any of you
11 think that, you know, God, this kid, I
12 mean he's killed a guy on the street.
13 Mr. Smith?

14 PROSPECTIVE JUROR SMITH: Yeah, I
15 could look at him as a liar because he
16 might not like his father.

17 MR. TIEGER: Okay.

18 PROSPECTIVE JUROR SMITH: So that
19 could be an option in my mind right
20 there.

21 MR. TIEGER: Yes, sir. Would
22 you -- for instance, if myself or Ms.
23 Shanahan, Ms. Williams or Mr. Whalen
24 asked him, Mr. Gilbert, do you like your
25 dad? Absolutely. In fact, I told him

1 what I did. We were close and he --
2 whatever he says, or he might say he
3 doesn't like him because of various
4 reasons.

5 I guess what I'm getting at, can
6 all of you treat Mr. Gilbert fairly while
7 looking at why he may say what he's
8 saying? Would any of you discount him,
9 look, he's killed a guy for no reason?

10 PROSPECTIVE JUROR ROZIER: I would,
11 because he killed somebody.

12 MR. TIEGER: What?

13 PROSPECTIVE JUROR ROZIER: Because
14 he committed murder already. That means
15 he could lie about anybody because he
16 already killed someone.

17 MR. TIEGER: And how would that --
18 so you would have -- it would be
19 difficult for you to really --

20 PROSPECTIVE JUROR ROZIER: Believe
21 him at all because he is a murderer.

22 MR. TIEGER: Okay. And this is
23 kind of why we go through this
24 questioning because there is no right or
25 wrong answers. Nobody is in any trouble

1 for this. People are excused from jury
2 service for a variety of reasons every
3 day. And if this is a type of case that
4 you can't be on, I'm sure there is
5 another type of case that you could, with
6 different witnesses and different facts.
7 So, that's why we ask this.

8 If you have got a -- I mean, he
9 said he did it. He'll tell you that he
10 did it, so he is a killer.

11 PROSPECTIVE JUROR ROZIER: He's a
12 killer but he's also a liar too because
13 he's a murderer. It's just as simple as
14 that. Why would you go out and murder
15 somebody innocently for no reason at all?
16 To me, you're a liar right off the top
17 because you're doing something stupid
18 anyway.

19 MR. TIEGER: Would it be fair to
20 say then that would prevent or
21 substantially impair you from being a
22 fair juror in this case because he is a
23 very important witness in our case?

24 PROSPECTIVE JUROR ROZIER: Yeah, I
25 will say that. Yeah.

1 MR. TIEGER: Okay. Judge, I don't
2 know how you do the --

3 THE COURT: Well, when both of you
4 are finished. I mean, the defense might
5 want to rehabilitate him. I don't know
6 whether you want --

7 MR. TIEGER: I guess I would ask
8 that he be excused for cause.

9 THE COURT: I'm gonna withhold
10 until all sides have a chance to question
11 him, but we will --

12 MR. TIEGER: Okay.

13 THE COURT: -- make that motion at
14 the right time.

15 MR. TIEGER: I really appreciate
16 your honesty, Mr. Rozier, because that is
17 extremely important. It's better that we
18 ask that now, because if we didn't know
19 what your thoughts were that -- basically
20 you could not give Mr. Gilbert a fair
21 hearing, right?

22 PROSPECTIVE JUROR ROZIER: No,
23 because he a murderer. I'm not going to
24 believe no murderers.

25 MR. TIEGER: Gotcha. Let's talk

1 about what Mr. Rozier said, because,
2 obviously, that's extremely important in
3 what we talked about. Does anybody feel
4 like Mr. Rozier feels? Mr. Smith?

5 PROSPECTIVE JUROR SMITH: Well, not
6 just that he's a murderer, but to do
7 something senseless. And then I have
8 seen a lot of guys who do stuff and just
9 they want to drag everybody down with
10 them, so I don't know if this guy is
11 going to be truthful. He might be a good
12 liar.

13 MR. TIEGER: Okay.

14 PROSPECTIVE JUROR SMITH: It's kind
15 of hard -- it's kind of hard to walk in
16 and say, yeah, I'm looking at the guy
17 with a blank mind and I'm going to give
18 him a fair opportunity. We already know
19 he's got these strikes against him
20 already. So to be honest, you know, I
21 don't think I could look at him fairly.

22 MR. TIEGER: Your personal views
23 would prevent or substantially impair you
24 from being fair in this particular case?

25 PROSPECTIVE JUROR SMITH: Yes.

1 MR. TIEGER: On that issue?

2 PROSPECTIVE JUROR SMITH: Yes.

3 MR. TIEGER: Thank you, Mr. Smith.

4 Does anybody else feel like that?

5 Anybody up here -- let's see,

6 Ms. McKinney, how do you feel about that?

7 PROSPECTIVE JUROR MCKINNEY:

8 Honestly, I feel differently because we
9 are here to hear -- we are here now to
10 hear different facts from both sides, and
11 honestly I don't know him, I don't know
12 what his past was or anything like that.
13 Well, I know he did kill someone, but we
14 are here to hear what he has to say, just
15 hear both sides, get the facts and then
16 make -- you know, make a judgment. I
17 can't judge him on what he does.

18 MR. TIEGER: Okay. Thanks,
19 Ms. McKinney.

20 Ms. Heintz, could you talk to me a
21 little bit about that?

22 PROSPECTIVE JUROR HEINTZ: I'm the
23 same. I'm willing to sit here, listen
24 and take everything as it is.

25 MR. TIEGER: Other than Mr. Smith

1 and Mr. Rozier, does everybody feel like
2 Ms. McKinney and Ms. Heintz pretty much?
3 Does anybody back here -- does anybody
4 have trouble going in with Mr. Gilbert's
5 testimony?

6 Let's see, Ms. Spencer. Ms.
7 Spencer, did you feel like Mr. Rozier and
8 Mr. Smith?

9 PROSPECTIVE JUROR SPENCER: It's
10 not that. It's -- to be perfectly
11 honest, I have a son in prison.

12 MR. TIEGER: Yes, ma'am.

13 PROSPECTIVE JUROR SPENCER: And
14 it's like going through this all over
15 again. And no matter what was said, I
16 will probably relate it to myself, you
17 know.

18 MR. TIEGER: Yes, ma'am.

19 PROSPECTIVE JUROR SPENCER: And it
20 will be hard. I don't think I could
21 really be honest because I'm gonna put it
22 back to me and my son.

23 MR. TIEGER: Thank you,
24 Ms. Spencer. Basically, just to
25 elaborate a little bit, there is a lot of

1 Cincinnati street murders. Is everybody
2 aware of that? And do all of you know
3 it's very difficult to get witness
4 cooperation in these cases? Has anybody
5 heard that? Has anybody heard that there
6 is a fear of testifying, because no
7 matter what I tell somebody, don't worry,
8 you'll be safe, either they have to move
9 back in that neighborhood or they have
10 got people that live in that neighborhood
11 where the shooter is? Does everybody
12 understand that?

13 As I said, Kareem Gilbert is not
14 the most articulate person in the world,
15 and I think I told you he is a dangerous
16 person that deserves to be locked up.
17 There is no question about that. But
18 that at a certain point, do all of you
19 understand that myself, Ms. Shanahan and
20 the Cincinnati Police had a decision to
21 make. When somebody comes to you and
22 says, hey, I did the first one but I
23 didn't do the second one, it was him, we
24 have to make a decision. And we looked
25 at all the facts and circumstances of the

1 second case and we made a decision to do
2 the 18-year prison sentence. And then we
3 made a decision that it was more
4 important for us to catch and pursue the
5 actual hands-on killer of Mr. Davis. Is
6 everybody okay with that, with making
7 that kind of decision?

8 I think we have talked enough about
9 that. The next thing I talked a little
10 bit about was that there is the
11 defendant, somebody is going to come in
12 here and tell you, Mr. Heard, that Mr.
13 Jordan confessed to him that he had done
14 it. And Mr. Heard at the time was a drug
15 dealer. Okay. It's never going to end,
16 I know. A lot of bomb shells. But
17 anyway, he is a drug dealer. He's going
18 to tell you back when this was going on
19 he was selling crack cocaine in Avondale
20 around the Burnet Avenue area. And he's
21 going to come in here and tell you very
22 specifically that the defendant told him
23 that he killed Victor Davis to protect
24 his son.

25 Now, does anybody -- kind of like

1 what we talked about with Kareem Gilbert,
2 because somebody is a drug dealer -- in
3 fact, he's going to tell you that he was
4 Mr. Jordan's supplier, that, you know
5 what, he's a drug dealer, that's pretty
6 much it. Like his credibility is shot
7 with me?

8 Mr. Burke, how do you feel about
9 that?

10 PROSPECTIVE JUROR BURKE: You have
11 to -- I don't automatically
12 disconsider -- I mean, I don't approve of
13 drug dealing, but just because they are a
14 drug dealer doesn't necessarily mean they
15 are automatically a habitual liar. I
16 would have to hear the whole facts,
17 everybody's story to see how things fit
18 and how people explain why they did the
19 things. I can't just pick a class of
20 people out and say I don't believe
21 anything they say.

22 MR. TIEGER: Okay. Ms. Bessey?

23 PROSPECTIVE JUROR BESSEY: I don't
24 see what would be in it for him to lie
25 because he said --

1 THE COURT: Ma'am, can you just
2 keep your voice up, please?

3 PROSPECTIVE JUROR BESSEY: I don't
4 think there is anything in it for him to
5 lie.

6 MR. TIEGER: Okay. Mrs. Williams?

7 PROSPECTIVE JUROR WILLIAMS: How
8 did you find out he was a drug dealer?

9 MR. TIEGER: Well, he --

10 PROSPECTIVE JUROR WILLIAMS: Is he
11 trying to cover -- well, he claims he's
12 trying to cover up what he did because he
13 told you he was a drug dealer. But did
14 he come forward and tell you that he did
15 it, or did he get in trouble and now he's
16 trying to say that, you know?

17 MR. TIEGER: He's trying to like
18 get case consideration?

19 PROSPECTIVE JUROR WILLIAMS: Yeah.

20 MR. TIEGER: No, this is not one
21 where there is any case consideration, so
22 he just came forward?

23 PROSPECTIVE JUROR WILLIAMS: He
24 came forward.

25 MR. TIEGER: Right.

1 PROSPECTIVE JUROR WILLIAMS: All
2 right.

3 MR. TIEGER: Okay. Just because
4 you wouldn't discount that, because he's
5 a dealer he's not looking for anything
6 for saying this at all. Nothing has been
7 promised him or told to him. And you're
8 shaking your head.

9 PROSPECTIVE JUROR WILLIAMS: Why
10 would he come forward?

11 MR. TIEGER: Well, and I know it
12 sounds corny, but -- and, again,
13 sometimes people come forward because
14 they think it's the right thing to do.

15 PROSPECTIVE JUROR WILLIAMS: A drug
16 dealer?

17 MR. TIEGER: And, again -- right.
18 And that's why I wanted to ask you that
19 because I know, like Mr. Burke said, even
20 though he's admitting selling, you know,
21 he could be --

22 PROSPECTIVE JUROR WILLIAMS: Right.

23 MR. TIEGER: He thinks it's wrong
24 for somebody to say they did it and let
25 their son be the one that's in jail for

1 it.

2 PROSPECTIVE JUROR WILLIAMS: Right.
3 But then he said he did it to protect his
4 son. If his son is already a murderer,
5 why?

6 MR. TIEGER: There's a difference
7 between one murder and two murders, I
8 guess. I guess what the difference would
9 be --

10 PROSPECTIVE JUROR WILLIAMS: Yes.

11 MR. TIEGER: You're having some
12 trouble with that, I think.

13 PROSPECTIVE JUROR WILLIAMS: Yes.

14 MR. TIEGER: Okay. Do you think
15 you could listen to him and treat him
16 fairly?

17 PROSPECTIVE JUROR WILLIAMS: Yeah.

18 MR. TIEGER: Okay. Let's see,
19 Ms. Coffman, how do you feel about that?

20 PROSPECTIVE JUROR COFFMAN: I would
21 like to hear it all. I might have -- I
22 mean, I would like to hear it before I
23 decide one way or the other. I have no
24 preconceived notion about him until I see
25 him.

1 MR. TIEGER: Okay. Ms. Binkley?

2 PROSPECTIVE JUROR BINKLEY: That's
3 why I'm here, for all of you attorneys to
4 prove or disprove, and I would listen to
5 all of the facts.

6 MR. TIEGER: Thank you,
7 Ms. Binkley. Moving on, which I think we
8 have covered this enough. I talked a
9 little bit about scientific or physical
10 evidence. This case does have scientific
11 evidence, and it's something called DNA.
12 Has everybody heard of DNA? Everybody?

13 And, basically, that's like a
14 biological fingerprint, and it's used for
15 a lot of reasons. It could either point
16 to somebody that is guilty, it could
17 exonerate the innocent. Would everybody
18 agree with that, that's their
19 understanding of it? It's also used for
20 like paternal cases, like who the parents
21 are of a child, and it's used, I think in
22 medicine, for like diseases and try to do
23 research. Does everybody accept DNA
24 evidence? I know when it first started,
25 everybody is like, wow, DNA, like it's a

1 bunch of test tubes, like how can anybody
2 like really believe that? But I think
3 it's been around long enough to where
4 it's generally accepted. Does everybody
5 accept DNA as evidence if it's properly
6 presented? Everybody okay with that?

7 Now, I think Judge Allen told you
8 the defendant is charged with aggravated
9 murder. And basically what that means is
10 it's premeditated murder, is basically
11 what that means. But this is not a death
12 penalty case. So, the death penalty is
13 not one of the options. If the death
14 penalty were one of the options, this
15 would be a whole different jury
16 selection. There would be a hundred or
17 50 of you in here, all we would be
18 talking about is what your feelings are
19 on the death penalty, and basically with
20 those juries, once you find him guilty,
21 there is a second like mini-trial where
22 we ask for death and they ask for life
23 and then you decide which of the
24 penalties it is.

25 So that's absolutely not going to

1 happen. It's not one of the options.
2 It's not a death penalty case. And if
3 you find the defendant guilty, no one
4 will ask you what you think he -- what
5 punishment he should get. So that cannot
6 even enter into your deliberations
7 because the law says that Judge Allen
8 gets to decide what the punishment is,
9 and you don't even have a voice or an
10 input into it. Is everybody okay with
11 that?

12 PROSPECTIVE JURORS: Yes.

13 MR. TIEGER: Now, the case does
14 have police witnesses. And in going
15 through your questionnaires, it looks
16 like some of you are friends with or
17 related to police. The basic rule on
18 police is that you would treat them like
19 you would anybody else. Now some people
20 love the police so much that when a
21 policeman walks up here they're
22 automatically going to believe a hundred
23 percent of what they say.

24 On the other hand, there is people
25 that hate police so much that they come

1 up here and they just -- they're not
2 buying it from the beginning. The
3 correct response for those of you that
4 know or are related to police, they are
5 just like all of us anyway, and just like
6 I think a lot of you said, you would
7 listen to them, judge their credibility
8 and make your own decisions.

9 Is everybody okay with that? Has
10 anybody ever had any bad dealings with
11 police at all? Nobody. Everybody is --

12 PROSPECTIVE JUROR SMITH: Like
13 traffic stops or something, you know, but
14 nothing to where I was, you know --

15 MR. TIEGER: Like covered up or
16 lied on or --

17 PROSPECTIVE JUROR SMITH: No, not
18 on that one before, but it was really a
19 mistaken identity, so...

20 MR. TIEGER: What happened there?

21 PROSPECTIVE JUROR SMITH: A young
22 lady hit the back of my car, and I had
23 just came back here from California and I
24 had bought a brand new Trans Am. And
25 when the girl hit me, I was out of the

1 car, like of all the cars you could hit,
2 and when the cop came up, he grabbed me
3 by the shoulder and slammed me on the
4 car. So that was basically after the
5 girl told him he was grabbing on the
6 wrong person. So that was about it right
7 there.

8 MR. TIEGER: Okay. Anybody else
9 have any bad dealings with police at all?

10 PROSPECTIVE JUROR ROZIER: Just
11 racial profiling, stopped by them.

12 MR. TIEGER: I'm sorry. That
13 happens.

14 PROSPECTIVE JUROR ROZIER: Too many
15 sheriffs in too many places. And I'm
16 talking about less than two weeks ago I
17 was stopped midnight coming up Madison
18 Road on my way home.

19 MR. TIEGER: There is no place for
20 that, and I apologize.

21 PROSPECTIVE JUROR ROZIER: I said
22 dude, why are you stopping me? He said I
23 had a clear license plate on my tag. He
24 said my flashing tags should be covered
25 up with a clear plate. I'm like they

1 sell them at the automobile place.

2 MR. TIEGER: That should have no
3 role in any case, but it definitely does
4 not have a role in this case at all
5 whatsoever. Has anybody, either
6 themselves or a friend or family member,
7 ever been the victim of a violent crime
8 or accused of a violent crime?

9 PROSPECTIVE JUROR ROZIER: I have a
10 relative who went to jail.

11 MR. TIEGER: Was that in Ohio?

12 PROSPECTIVE JUROR ROZIER: Yes.

13 MR. TIEGER: Mr. Rozier?

14 PROSPECTIVE JUROR ROZIER: Yes, he
15 did 25 years.

16 MR. TIEGER: When was that?

17 PROSPECTIVE JUROR ROZIER: It was
18 the professor who got killed over at UC
19 off campus, someplace off campus at his
20 office. He went in there and robbed him
21 and killed him. That was back in 1977.

22 MR. TIEGER: Okay. Do you feel
23 that your relative was treated fairly in
24 that case?

25 PROSPECTIVE JUROR ROZIER: Yeah.

1 MR. TIEGER: Okay.

2 PROSPECTIVE JUROR WILLIAMS: My
3 children's father was a victim of a
4 crime.

5 MR. TIEGER: Ms. Williams, what
6 type of victim was he?

7 PROSPECTIVE JUROR WILLIAMS: He was
8 murdered in Birmingham, Alabama at a
9 nightclub.

10 MR. TIEGER: How long ago did that
11 happen?

12 PROSPECTIVE JUROR WILLIAMS: In
13 August of '06.

14 MR. TIEGER: Was anybody ever
15 caught?

16 PROSPECTIVE JUROR WILLIAMS: No.

17 MR. TIEGER: Do you feel that the
18 police investigated that properly or did
19 everything?

20 PROSPECTIVE JUROR WILLIAMS: No, I
21 never got into no details about it except
22 Birmingham, Alabama. So, no, I don't
23 even talk about it with any of his
24 relatives, nothing.

25 MR. TIEGER: You're just not sure

1 what?

2 PROSPECTIVE JUROR WILLIAMS: No.

3 MR. TIEGER: What happened by way
4 of trying to figure out who did it, and
5 you're going to have a family in here,
6 the Davis family who lost a husband or a
7 father, do you think you could be fair to
8 Mr. Jordan knowing that you have been
9 through the same thing as a victim?

10 PROSPECTIVE JUROR WILLIAMS: Yeah.

11 MR. TIEGER: Has anybody ever been
12 confronted with like a weapon, like a gun
13 or knife. Ms. Binkley?

14 PROSPECTIVE JUROR BINKLEY: Yes. I
15 used to work at a restaurant as a manager
16 and I was held up for money, and he had
17 his hand in his pocket, so I don't know
18 if I was held up by a gun or a finger.

19 MR. TIEGER: Yes, ma'am. Now
20 that's pretty common. Like a lot of
21 banks and so forth.

22 PROSPECTIVE JUROR BINKLEY: Right.

23 MR. TIEGER: You have to act like
24 it's a real gun.

25 PROSPECTIVE JUROR BINKLEY: Yeah, I

1 did.

2 MR. TIEGER: Did that person get
3 away?

4 PROSPECTIVE JUROR BINKLEY: Yes.

5 MR. TIEGER: Were they ever caught?

6 PROSPECTIVE JUROR BINKLEY: No.

7 MR. TIEGER: Did that person show
8 their face at all?

9 PROSPECTIVE JUROR BINKLEY: They
10 had a hat on. And to be quite honest
11 with you, I didn't even look at him at
12 all. I was concerned with giving him the
13 money and I almost didn't even want to
14 look at him.

15 MR. TIEGER: Okay. Did anybody
16 ever ask you to identify the person that
17 did it?

18 PROSPECTIVE JUROR BINKLEY: Oh,
19 yeah, they tried. I had the police come
20 to my house and draw a drawing, you know,
21 but I had no idea what he looked like.

22 MR. TIEGER: What part of town did
23 that happen in?

24 PROSPECTIVE JUROR BINKLEY: On the
25 west side of town.

1 MR. TIEGER: Okay. How long ago
2 was that?

3 PROSPECTIVE JUROR BINKLEY: Oh my
4 God.

5 MR. TIEGER: It's been a while.

6 PROSPECTIVE JUROR BINKLEY: It's
7 been a long while.

8 MR. TIEGER: Okay. And I think
9 Ms. --

10 PROSPECTIVE JUROR MCKEEHAN:
11 McKeehan.

12 MR. TIEGER: -- McKeehan.

13 PROSPECTIVE JUROR MCKEEHAN: Yes.
14 18 years ago I was robbed on the L train
15 in Chicago. I was the only one there, he
16 just stole a necklace, and that's it. I
17 was like just take what you want, don't
18 hurt me, and he did, he jumped off at the
19 next exit and I made my way up to the
20 front of the cab and took a report. They
21 never caught them. I never heard
22 anything else. I didn't really see him,
23 I really didn't want to look, because I
24 wanted him to leave me alone.

25 MR. TIEGER: Yes, ma'am. Sorry

1 again that happened. Anybody else been
2 through something similar? As you
3 noticed, I have used some graphic terms.
4 There is going to be explicit testimony
5 from some of the witnesses, but certainly
6 the coroner is going to be about the
7 cause of death. And there is going to be
8 photos of victims showing their fatal
9 injuries. Nobody enjoys looking at those
10 kind of pictures and hearing that type of
11 testimony, but it is part of the case.

12 Can everybody listen to that type
13 of testimony and look at those type of
14 graphic pictures in this case? Everybody
15 okay with doing that? I know some of you
16 are probably like this, because I know I
17 am, I'm like a very curious person. You
18 want to now the answer to everything.
19 You want to know why things happen. You
20 want to kind of get to the bottom of it.

21 And Judge Allen touched on this
22 when she first spoke to you, that there
23 are rules of evidence that apply in this
24 case and that there may be some questions
25 that Ms. Shanahan and I have. We may

1 object, Mr. Whalen and Ms. Williams may
2 object to certain things, and those are
3 things you can consider. You're maybe
4 wanting to know like what's the answer,
5 why weren't they allowed to say it, or
6 there may be some things that Ms.
7 Shanahan, myself, Mr. Whalen and
8 Ms. Williams forget to ask or don't ask
9 that you might want to know. There may
10 be legal reasons that we are not allowed
11 to ask it so we don't ask it.

12 But what I'm kind of getting at in
13 a long-winded way, saying that you're not
14 going to be permitted to raise your hand
15 and ask any questions of the witness or
16 anything like that. You're basically
17 stuck with whatever the evidence is that
18 comes out in the courtroom. Can
19 everybody accept that? Because there are
20 going to be things that you don't know
21 about the case that you wish you did, but
22 you're going to have to be making a
23 decision anyway. Is everybody good with
24 that?

25 In this case, like every other

1 case, every case I have ever done, is
2 that there are going to be
3 inconsistencies in this case. Whatever
4 they may be, things are going -- are any
5 of you like scientific or chemists or
6 engineers, accountants, anything like
7 that?

8 PROSPECTIVE JUROR MCKEEHAN: Not an
9 accountant but I work in accounting.

10 MR. TIEGER: Okay. A lot of times
11 things have to add up exactly between
12 column B and column A or else it just
13 doesn't work. In this case there are
14 going to be things that don't exactly
15 match up. Is everybody okay with that,
16 or is everybody going to be expecting
17 perfection in our presentation? When
18 you're dealing with human credibility,
19 human frailty, especially things that
20 happened a number of years ago, memories
21 are going to be different. There are
22 going to be things that are a little bit
23 different. Is everybody okay with that?
24 Does everybody understand?

25 There's what we call the standard

1 of proof which means that Ms. Shanahan
2 and I have to prove to you that Ruben
3 Jordan is guilty of this crime, and we
4 have to show you that by what's called
5 beyond a reasonable doubt. And that's
6 the standard of proof, we call it.
7 That's used in every case in the State of
8 Ohio from like the most minor traffic
9 case, like a speeding trial, running a
10 red light, shoplifting, any kind of case
11 like that, all the way up to like rape
12 and murder. It's the same exact words
13 that Judge Allen will read you out of a
14 book that is used in every case in the
15 State of Ohio, and that's called beyond a
16 reasonable doubt. Can all of you accept
17 that definition? Because sometimes on TV
18 you hear the word like a shadow of a
19 doubt. Have any of you heard that word?
20 But it's called beyond a reasonable
21 doubt.

22 Can everybody follow that rule? I
23 won't tell you what it is, the Court will
24 tell you. Can you follow the law as the
25 Court gives it to you on that?

1 The other thing that Ms. Shanahan
2 and I are going to ask you to do is pass
3 judgment on Mr. Jordan. And by that I
4 mean we are going to ask you to decide
5 whether he actually killed Mr. Davis or
6 not. And the reason I bring it up is
7 that a long time ago I had a case, I
8 don't think it was a murder case, I can't
9 really remember, but it was kind of a
10 long trial we went through. The 12 of
11 you go back in the jury room, okay, let's
12 start. One of the jurors turns their
13 chair around, it's not up to me, it's up
14 to God. I'm not going to sign a guilty.
15 I'm not going to sign a not guilty. It's
16 not my place to decide whether he did it
17 or not.

18 well, that's an extreme example.
19 It really is true. And because of that,
20 we had to, a couple months later, pick a
21 new jury, have everyone testify again,
22 and go through the same thing. So ever
23 since then I have asked that question.
24 Can all of you, when the time comes, do
25 any of you have a religious or moral

1 belief that would prevent you from
2 passing judgment on another person?
3 Nobody does?

4 And by that I mean if Ms. Shanahan
5 and I have proven our case to you, can
6 all of you sign a guilty verdict saying
7 that Mr. Jordan did this crime? Can
8 everybody do that?

9 On the other hand, if I haven't
10 proven my case, can all of you sign a not
11 guilty verdict? One or the other? Okay.

12 Has anybody, either yourself or a
13 family member or friend, ever been
14 involved in the criminal justice system
15 either as a victim or a witness? No.
16 How about the opposite where either
17 yourself or a friend or family member has
18 ever been accused or charged with a
19 crime? And by that I mean like, well,
20 let's see, like domestic violence or OVI,
21 DUI, disorderly conduct, theft, anything
22 like that, you, yourself, family member,
23 Ms. McKinney?

24 PROSPECTIVE JUROR MCKEEHAN: My
25 uncle, he was found guilty of domestic

1 violence.

2 MR. TIEGER: Who was the victim in
3 that?

4 PROSPECTIVE JUROR MCKINNEY: His
5 wife.

6 MR. TIEGER: And that would be your
7 aunt?

8 PROSPECTIVE JUROR MCKINNEY:
9 Uh-huh.

10 MR. TIEGER: She had said -- did he
11 admit that he did it or did he deny it?

12 PROSPECTIVE JUROR MCKINNEY: I
13 believe he denied it, but he got found
14 guilty.

15 MR. TIEGER: So your aunt said it
16 happened?

17 PROSPECTIVE JUROR MCKINNEY: Uh-huh.

18 MR. TIEGER: She said that he
19 abused her, hit her. He said he didn't
20 do it but somebody decided that she was
21 telling the truth?

22 PROSPECTIVE JUROR MCKINNEY: I
23 believe she had bruises. There was
24 evidence to prove that he did do it.

25 MR. TIEGER: How long ago was that?

1 PROSPECTIVE JUROR MCKINNEY: About
2 three months ago.

3 MR. TIEGER: Okay.

4 PROSPECTIVE JUROR MCKINNEY: About
5 six months ago. I take that back.

6 MR. TIEGER: Are you close to your
7 aunt and uncle?

8 PROSPECTIVE JUROR MCKINNEY: No.
9 well, I talk to them occasionally at
10 holidays and stuff like that.

11 MR. TIEGER: And did you feel that
12 the court system treated her and him
13 fairly in that case?

14 PROSPECTIVE JUROR MCKINNEY: Uh-huh.

15 MR. TIEGER: You're okay with the
16 result?

17 PROSPECTIVE JUROR MCKINNEY: Uh-huh.

18 MR. TIEGER: Even though he denied
19 it, there was sufficient proof to say
20 that he did it?

21 PROSPECTIVE JUROR MCKINNEY: (Nods
22 affirmatively.)

23 MR. TIEGER: Ms. Williams?

24 PROSPECTIVE JUROR WILLIAMS: I was
25 charged with DUI in '09.

1 MR. TIEGER: And what happened on
2 that?

3 PROSPECTIVE JUROR WILLIAMS: I was
4 drinking and driving and I caused an
5 accident.

6 MR. TIEGER: And did you take a
7 test?

8 PROSPECTIVE JUROR WILLIAMS: Uh-huh.

9 MR. TIEGER: Breath test?

10 PROSPECTIVE JUROR WILLIAMS: No,
11 they drew blood.

12 MR. TIEGER: They drew blood. Were
13 you hurt?

14 PROSPECTIVE JUROR WILLIAMS: No.
15 No one was hurt, but I was charged with
16 DUI.

17 MR. TIEGER: Did blood results come
18 back and say that you were like over the
19 --

20 PROSPECTIVE JUROR WILLIAMS: One
21 point over.

22 MR. TIEGER: Okay. Did you enter a
23 guilty plea or no contest plea?

24 PROSPECTIVE JUROR WILLIAMS: No
25 contest.

1 MR. TIEGER: Do you feel that you
2 were treated fairly by the police?

3 PROSPECTIVE JUROR WILLIAMS: Yes.

4 MR. TIEGER: That you really
5 probably shouldn't have been driving?

6 PROSPECTIVE JUROR WILLIAMS: Uh-huh.

7 MR. TIEGER: Was that in Cincinnati
8 or was that --

9 PROSPECTIVE JUROR WILLIAMS: It was
10 in Cincinnati.

11 MR. TIEGER: What part of town was
12 that in?

13 PROSPECTIVE JUROR WILLIAMS: On
14 Reading Road.

15 MR. TIEGER: And where on Reading
16 Road?

17 PROSPECTIVE JUROR WILLIAMS:
18 Vernon's Place, I think it was.

19 MR. TIEGER: Like Avondale?

20 PROSPECTIVE JUROR WILLIAMS: By the
21 hospital.

22 MR. TIEGER: Okay.

23 PROSPECTIVE JUROR WILLIAMS: Uh-huh.

24 MR. TIEGER: The place where this
25 happened in like the Findlay Market area,

1 is anybody familiar with that area?
2 Anything about that that would cause you
3 to be fair or unfair one way or another
4 in this case? And there are a few people
5 back here that I think raised their
6 hands. Maybe if you can just tell me
7 your names real fast.

8 PROSPECTIVE JUROR LAVELLE: Sarah
9 Lavelle.

10 MR. TIEGER: Lavelle. Okay.

11 PROSPECTIVE JUROR BERNHARD:
12 Christine Bernhard.

13 MR. TIEGER: Bernhard.
14 Ms. Spencer, is it?

15 PROSPECTIVE JUROR SPENCER: Yes.

16 PROSPECTIVE JUROR KEMPER: Sherri
17 Kemper.

18 MR. TIEGER: Kemper. Ms. Decenso.
19 I'm just going to go through your
20 questionnaires. Mr. Rozier, I think we
21 talked a lot, so I'm going to skip over
22 you.

23 Ms. McKinney, you're a pharmacy
24 tech?

25 PROSPECTIVE JUROR MCKINNEY: Uh-huh.

1 MR. TIEGER: How long have you
2 been -- is that at Mercy Hospital?

3 PROSPECTIVE JUROR MCKINNEY: Yes.

4 MR. TIEGER: And how long have you
5 been with Mercy?

6 PROSPECTIVE JUROR MCKINNEY: Since
7 April, about ten, 11 months.

8 MR. TIEGER: When did you get
9 through school?

10 PROSPECTIVE JUROR MCKINNEY: I did
11 not.

12 MR. TIEGER: Okay. You're still --
13 it looks like you have two years, okay,
14 two years of college.

15 PROSPECTIVE JUROR MCKINNEY: But it
16 was for education, it was not for
17 pharmacy.

18 MR. TIEGER: Okay. And then you
19 got out of Cincinnati State?

20 PROSPECTIVE JUROR MCKINNEY: Uh-huh.

21 MR. TIEGER: And do you like what
22 you are doing in pharmacy?

23 PROSPECTIVE JUROR MCKINNEY: Yes.

24 MR. TIEGER: Is that something you
25 plan on continuing on for a lengthy

1 period of time?

2 PROSPECTIVE JUROR MCKINNEY: Yes.

3 MR. TIEGER: Where is Mercy
4 Hospital, the one you work at?

5 PROSPECTIVE JUROR MCKINNEY: In Mt.
6 Airy.

7 MR. TIEGER: What type of things
8 would you do as a pharmacy tech?

9 PROSPECTIVE JUROR MCKINNEY: Data
10 entry, accounting, filling prescriptions,
11 mailing out prescriptions, ordering
12 medication as a manager.

13 MR. TIEGER: And you would work
14 with a pharmacist?

15 PROSPECTIVE JUROR MCKINNEY: Yes.

16 MR. TIEGER: And you said you're an
17 open-minded person?

18 PROSPECTIVE JUROR MCKINNEY: Yes.

19 MR. TIEGER: What do you mean by
20 that?

21 PROSPECTIVE JUROR MCKINNEY: Well,
22 I guess I'm not close-minded. I take
23 everything in and then I don't like make
24 a decision on basically anything. I
25 can't just make one decision off just one

1 thing.

2 MR. TIEGER: Okay. Thank you,
3 Ms. McKinney. Let's see,
4 Ms. Messerschmitt?

5 PROSPECTIVE JUROR MESSERSCHMITT:
6 Yes.

7 MR. TIEGER: Tell me a little bit
8 about yourself.

9 PROSPECTIVE JUROR MESSERSCHMITT:
10 I'm 53. I have three children who are
11 adults now.

12 MR. TIEGER: Are you a homemaker,
13 is that fair to say?

14 PROSPECTIVE JUROR MESSERSCHMITT: I
15 was let go of my job in March.

16 MR. TIEGER: What did you do when
17 you were working?

18 PROSPECTIVE JUROR MESSERSCHMITT: I
19 was a senior administrative assistant for
20 a clinical research organization.

21 MR. TIEGER: What type of research
22 did you do?

23 PROSPECTIVE JUROR MESSERSCHMITT:
24 It's where drugs are being invented and
25 we would take it from phase I to phase IV

1 to FDA approval. We would be the one to
2 do the studies and see if the drug was
3 appropriately working for that
4 indication.

5 MR. TIEGER: And how long had you
6 been at that company?

7 PROSPECTIVE JUROR MESSERSCHMITT: I
8 was at that company for three years and
9 another one before that about nine years.

10 MR. TIEGER: Okay. And is this
11 because just of the economy or was it
12 downsizing or whatever, what happened?

13 PROSPECTIVE JUROR MESSERSCHMITT:
14 It was because of the economy and I
15 worked from home for them, and they were
16 located globally, and it's kind of hard
17 to support VPs and that from your HOME
18 when they're in different states.

19 MR. TIEGER: Okay. It sounds like
20 you didn't have a lot of bad feelings or
21 was it kind of a tough breakup?

22 PROSPECTIVE JUROR MESSERSCHMITT:
23 No. The person who wanted me to go to
24 this company, she's the one that let me
25 go, and we are still friends, and it was

1 just something that had to be done.

2 MR. TIEGER: Okay. Are you looking
3 for something else or you enjoying your
4 time off?

5 PROSPECTIVE JUROR MESSERSCHMITT: I
6 have a granddaughter so I have been
7 enjoying my time, but I have been looking
8 for something, you have to go to work to
9 make bills, meet them.

10 MR. TIEGER: And it looks like you
11 have prior jury service.

12 PROSPECTIVE JUROR MESSERSCHMITT:
13 Yeah, it was back in, I guess my daughter
14 was about four or five. She's 26 now, so
15 back in late '90s or early '90s,
16 somewhere around there.

17 MR. TIEGER: Do you remember what
18 type of case it was?

19 PROSPECTIVE JUROR MESSERSCHMITT:
20 It was a case where a gentleman had
21 stolen something from Kmart, and it was
22 found on him outside the store doors.

23 MR. TIEGER: Like a shoplifting?

24 PROSPECTIVE JUROR MESSERSCHMITT:
25 Yeah, like it was a camera or radio --

1 alarm clock, in fact, I think it was.

2 MR. TIEGER: Good memory.

3 PROSPECTIVE JUROR MESSERSCHMITT:

4 Thank you.

5 MR. TIEGER: And were you able to
6 deliberate with other jurors and reach a
7 verdict in that case?

8 PROSPECTIVE JUROR MESSERSCHMITT:

9 Yes, we were.

10 MR. TIEGER: Thank you,
11 Ms. Messerschmitt.

12 PROSPECTIVE JUROR MESSERSCHMITT:

13 Uh-huh.

14 MR. TIEGER: I see, Ms. Williams,
15 it's Barrington of Oakley. Where is
16 that?

17 PROSPECTIVE JUROR WILLIAMS: It's
18 assisted living, like a nursing home. I
19 work in the cafeteria.

20 MR. TIEGER: How long have you been
21 with Barrington?

22 PROSPECTIVE JUROR WILLIAMS: Well,
23 I have been doing dietary for about ten
24 years, but I have been there since last
25 year in June.

1 MR. TIEGER: What type of things do
2 you do as a dietary aide?

3 PROSPECTIVE JUROR WILLIAMS: Like
4 prepare the food. I clean.

5 MR. TIEGER: Okay. How many
6 people? Is it for elderly people?

7 PROSPECTIVE JUROR WILLIAMS: Uh-huh.

8 MR. TIEGER: Okay. You said is it
9 assisted living?

10 PROSPECTIVE JUROR WILLIAMS: Uh-huh.

11 MR. TIEGER: So they can kind of
12 get along on their own?

13 PROSPECTIVE JUROR WILLIAMS: Uh-huh.

14 MR. TIEGER: Do you enjoy that?
15 Yeah, you do?

16 PROSPECTIVE JUROR WILLIAMS: Oh, I
17 love it.

18 MR. TIEGER: Okay. Thank you,
19 Ms. Williams.

20 PROSPECTIVE JUROR WILLIAMS: Uh-huh.

21 MR. TIEGER: Let's see,
22 Ms. McKeegan?

23 PROSPECTIVE JUROR MCKEEHAN: Yes.

24 MR. TIEGER: Let's see, an
25 administrator.

1 PROSPECTIVE JUROR MCKEEHAN: I work
2 for Greenebaum Doll & McDonald law firm.

3 MR. TIEGER: What is a billing
4 administrator?

5 PROSPECTIVE JUROR MCKEEHAN: I take
6 care of all the billing for the
7 Cincinnati and Lexington offices. I send
8 out the billed clients as I contact
9 insurance companies and handle any
10 problems they would have with their
11 bills.

12 MR. TIEGER: What kind of law firm
13 is that?

14 PROSPECTIVE JUROR MCKEEHAN: Well,
15 they used to be estate planning. They do
16 patents and trademark, very little
17 litigation and no criminal law at all.

18 MR. TIEGER: Where are they located?

19 PROSPECTIVE JUROR MCKEEHAN: We are
20 right downtown here in Cincinnati. We
21 have some offices in Lexington,
22 Louisville, Nashville, several other
23 offices.

24 MR. TIEGER: So somebody would do
25 work -- somebody would do work for a

1 client, you would be responsible for
2 getting the bill to that client?

3 PROSPECTIVE JUROR MCKEEHAN: That's
4 correct.

5 MR. TIEGER: And then do you follow
6 through and make sure it's paid?

7 PROSPECTIVE JUROR MCKEEHAN: No.
8 No.

9 MR. TIEGER: That's somebody else?

10 PROSPECTIVE JUROR MCKEEHAN:
11 Someone else does that. I will answer
12 questions about the billing. And if
13 there is problems, I'll contact the
14 attorney and try to work it out.

15 MR. TIEGER: Okay. How long have
16 you been doing that for?

17 PROSPECTIVE JUROR MCKEEHAN:
18 Sixteen years.

19 MR. TIEGER: Okay. And then how
20 long have you been doing the animal
21 rescue?

22 PROSPECTIVE JUROR MCKEEHAN: About
23 two years.

24 MR. TIEGER: Okay. What got you
25 into that?

1 PROSPECTIVE JUROR MCKEEHAN: I saw
2 on Craig's list said West Union needed
3 assistance, their pound did, and so I
4 took up a collection in my office. And
5 one of the attorneys at my office, at the
6 time, she was into animal rescue, and she
7 asked me to take a trip out there and see
8 if it was really as bad as they said it
9 was, and so I did. And I came back and I
10 said it really is that bad, and so it got
11 me into rescue.

12 MR. TIEGER: Okay. Thank you, Ms.
13 McKeehan.

14 PROSPECTIVE JUROR MCKEEHAN: Sure.

15 MR. TIEGER: Let's see,
16 Mr. Fitzgerald. You're with Fidelity
17 Investments?

18 PROSPECTIVE JUROR FITZGERALD:
19 Correct.

20 MR. TIEGER: A managing director.
21 What type of things would you do as a
22 managing director?

23 PROSPECTIVE JUROR FITZGERALD: I
24 manage corporate 401 plans for 27
25 companies, Wisconsin, Michigan and

1 Minnesota, out in Nebraska.

2 MR. TIEGER: How long have you been
3 with Fidelity?

4 PROSPECTIVE JUROR FITZGERALD:
5 Eighteen years.

6 MR. TIEGER: And I'm assuming you
7 start -- you had to work yourself up?

8 PROSPECTIVE JUROR FITZGERALD:
9 Correct.

10 MR. TIEGER: Are you a supervisor
11 of anybody at Fidelity?

12 PROSPECTIVE JUROR FITZGERALD: No,
13 sir.

14 MR. TIEGER: Somebody that you
15 would report to somebody else?

16 PROSPECTIVE JUROR FITZGERALD:
17 Correct.

18 MR. TIEGER: And you are given kind
19 of free reign to do what you think is
20 right on particular accounts?

21 PROSPECTIVE JUROR FITZGERALD: To
22 an extent. I mean it's got to be legal.

23 MR. TIEGER: Right. Details, you
24 know. Is that in Kenwood or where is
25 that located?

1 PROSPECTIVE JUROR FITZGERALD:
2 Covington, Kentucky.

3 MR. TIEGER: How big of a company
4 do you have?

5 PROSPECTIVE JUROR FITZGERALD:
6 44,000 people.

7 MR. TIEGER: Wow. Okay. And how
8 many in Covington?

9 PROSPECTIVE JUROR FITZGERALD: A
10 little bit less than 4,000.

11 MR. TIEGER: I didn't realize it
12 was so large. Where are you? Do you
13 have your own building over there?

14 PROSPECTIVE JUROR FITZGERALD:
15 Yeah, we own about 275 acres out there.
16 We own four building.

17 MR. TIEGER: And what part of
18 Kentucky? Covington you said?

19 PROSPECTIVE JUROR FITZGERALD: It's
20 southern Covington. I think it's like
21 Latonia, just right outside Latonia.

22 MR. TIEGER: Okay. Okay. Thank
23 you, Mr. Fitzgerald.

24 Let's see, Miss Binkley.

25 PROSPECTIVE JUROR BINKLEY: Yeah.

1 MR. TIEGER: It looks like you're
2 at Merrill Lynch.

3 PROSPECTIVE JUROR BINKLEY: Yes, I
4 am.

5 MR. TIEGER: Is that a competitor
6 to Fidelity?

7 PROSPECTIVE JUROR BINKLEY: Yes, it
8 is, that's why I left Fidelity.

9 MR. TIEGER: None of you knew each
10 other before this at all? Do you know
11 each other at all? All complete
12 strangers. Okay. How long have you been
13 with Merrill Lynch?

14 PROSPECTIVE JUROR BINKLEY: Eleven
15 years.

16 MR. TIEGER: And it looks like
17 you -- what do you do for Merrill Lynch?

18 PROSPECTIVE JUROR BINKLEY: I'm
19 called a client associate. I work with a
20 group of four brokers and four
21 assistants. So we take care of all the
22 paperwork and the clients and opening new
23 accounts and transferring assets from one
24 company to another, and issuing checks
25 and taking care of their visa problems

1 and --

2 MR. TIEGER: How did you get from
3 like social work to Merrill Lynch?

4 PROSPECTIVE JUROR BINKLEY: It's
5 very similar. You're just dealing with a
6 different social class of people.

7 MR. TIEGER: Okay. Did you ever --
8 were you ever a social worker?

9 PROSPECTIVE JUROR BINKLEY: I
10 worked for about five years for the
11 Hamilton County Welfare Department.

12 MR. TIEGER: Okay. And now it's
13 called Jobs & Family services.

14 PROSPECTIVE JUROR BINKLEY: I guess
15 that's what they call it.

16 MR. TIEGER: Were you up in the
17 Alms & Doepke Building at the time?

18 PROSPECTIVE JUROR BINKLEY: No,
19 Sycamore, what is it Seventh and
20 Sycamore?

21 MR. TIEGER: I think I know where
22 you mean.

23 PROSPECTIVE JUROR BINKLEY: Yeah.
24 That's where we were. It's been many
25 years ago.

1 MR. TIEGER: What did you do for
2 them?

3 PROSPECTIVE JUROR BINKLEY: I was
4 the caseworker.

5 MR. TIEGER: How did you like that?

6 PROSPECTIVE JUROR BINKLEY: I liked
7 it to a certain extent. It got to the
8 point -- it got to be kind of stressful
9 so I decided it was time to get out and
10 do something else.

11 MR. TIEGER: And it looks like
12 you're happy with the decision you have
13 made?

14 PROSPECTIVE JUROR MCKEEHAN: Yes.

15 MR. TIEGER: Okay. And it looks
16 like you also have prior jury service?

17 PROSPECTIVE JUROR BINKLEY: Yeah,
18 about 12 years ago.

19 MR. TIEGER: Do you remember what
20 type of case that was?

21 PROSPECTIVE JUROR BINKLEY: No, I
22 don't. I know you asked somebody else,
23 and I was trying to remember what it was
24 but I can't remember. It was a one-day
25 affair.

1 MR. TIEGER: And I don't mean to
2 pry too much, but on your questionnaire,
3 when they asked whether you thought you
4 would be a good juror, do you remember
5 what your answer was?

6 PROSPECTIVE JUROR BINKLEY: No, I
7 don't.

8 MR. TIEGER: Okay. I think you
9 said you weren't sure. I think you are a
10 little bit anxious.

11 PROSPECTIVE JUROR BINKLEY: Yeah.
12 I had -- this whole thing is rather
13 intimidating and, you know, a little bit
14 of the anxiety, but I'm doing fine.

15 MR. TIEGER: Okay. After having
16 kind of heard the Judge and myself, and I
17 know Mr. Whalen and Ms. Williams are
18 going to talk to you as well, do you
19 think it's something that you're going to
20 be able to do?

21 PROSPECTIVE JUROR BINKLEY: Yeah.

22 MR. TIEGER: Okay. Thank you, Ms.
23 Binkley. Let's see, Ms. Coffman.

24 PROSPECTIVE JUROR COFFMAN: Yeah.

25 MR. TIEGER: It looks like you're

1 retired, ma'am?

2 PROSPECTIVE JUROR COFFMAN: Yes.

3 MR. TIEGER: And what did you do
4 before you were retired?

5 PROSPECTIVE JUROR COFFMAN: Well,
6 years ago I was a home economist in
7 Columbus, Ohio, and then I took off for a
8 while and then I worked for Talbots doing
9 all their window displays for 25 years,
10 and now I'm retired.

11 MR. TIEGER: And a home economist
12 now?

13 PROSPECTIVE JUROR COFFMAN: Home
14 economist.

15 MR. TIEGER: What is that?

16 PROSPECTIVE JUROR COFFMAN: They
17 don't even have them any more. I worked
18 out of Columbus, at a gas company and we
19 would teach women how to use their gas
20 appliances. We went to their home and
21 showed them what to do, and it's just a
22 whole other way of life years ago.

23 MR. TIEGER: Who did you work for?

24 PROSPECTIVE JUROR COFFMAN:
25 Columbia Gas of Ohio.

1 MR. TIEGER: So if you bought a --

2 PROSPECTIVE JUROR COFFMAN:

3 Anything.

4 MR. TIEGER: -- gas --

5 PROSPECTIVE JUROR COFFMAN: Not
6 furnaces, but just stoves. Well then
7 they had gas washers and dryers, I'm not
8 sure. They had gas appliances, just go
9 out and then we managed phones and told
10 woman how to cook and they would call and
11 tell them how to fix a turkey and have
12 the box in front of us, read what to do.
13 I never cooked in my life but read that
14 book, saved my life. It was a great job.

15 MR. TIEGER: I'm glad you said it
16 that way because you could probably never
17 teach men how to do that anyway.

18 PROSPECTIVE JUROR COFFMAN: My
19 husband cooks every night so --

20 MR. TIEGER: How long did you do
21 that for?

22 PROSPECTIVE JUROR COFFMAN: Gas
23 company, I don't know, five, six years.

24 MR. TIEGER: I know they teach that
25 in high school a little bit, the home ec

1 and all that, but that's a little bit
2 different than what you do.

3 PROSPECTIVE JUROR COFFMAN: I don't
4 know if they stop -- almost like they
5 stopped doing that now. Maybe they're
6 starting up again.

7 MR. TIEGER: I think pretty much
8 now when you buy, it's like they won't
9 even help you to the door.

10 PROSPECTIVE JUROR COFFMAN: You're
11 on your own. We had company cars. We
12 were all called the same name. We went
13 all over Ohio judging contests of all
14 kind. It was a great job right out of
15 college.

16 MR. TIEGER: And then Talbots you
17 worked for, where was that?

18 PROSPECTIVE JUROR COFFMAN: Hyde
19 Park, Kenwood, downtown. Wherever there
20 was a Talbots store I went and did all
21 the window displays.

22 MR. TIEGER: I gotcha. Wherever,
23 you worked on the displays for the
24 stores?

25 PROSPECTIVE JUROR COFFMAN: Yes.

1 MR. TIEGER: Like a window?

2 PROSPECTIVE JUROR COFFMAN:

3 Mannequins. All the mannequins, dressing
4 all the mannequins, dressing anything
5 inside the store, doing any displays in
6 any store.

7 MR. TIEGER: How many Talbot stores
8 are there still in Cincinnati?

9 PROSPECTIVE JUROR COFFMAN: Well,
10 just in proper, three, but now they are
11 out everywhere.

12 MR. TIEGER: Okay. How long have
13 you been retired?

14 PROSPECTIVE JUROR COFFMAN: 2004,
15 maybe five.

16 MR. TIEGER: How are you spending
17 your time?

18 PROSPECTIVE JUROR COFFMAN: Well, I
19 stopped to take care of my father who was
20 in his 90s. And since he'd taken care of
21 me I thought well, I'll take care of him.
22 And then he passed away in 2005. So now
23 I just do volunteer work, Historical
24 Society type of work, Mary Elders in
25 Mariemont, Elder Home Garden, whatever

1 anybody needs I do for free.

2 MR. TIEGER: And your husband is
3 a -- or was a counselor at St. X?

4 PROSPECTIVE JUROR COFFMAN: He
5 still is.

6 MR. TIEGER: What type of
7 counseling does he do?

8 PROSPECTIVE JUROR COFFMAN: He gets
9 the boys into college.

10 MR. TIEGER: Okay. Guidance
11 counselor?

12 PROSPECTIVE JUROR COFFMAN: Yes.

13 MR. TIEGER: Does he ever deal with
14 discipline?

15 PROSPECTIVE JUROR COFFMAN: Yes, he
16 has to.

17 MR. TIEGER: Because I know there
18 was the boy that fell off the balcony
19 down in Florida, you know, I know that.
20 I'm sure a lot of students were extremely
21 upset about that, so he deals with the
22 kids about things like that?

23 PROSPECTIVE JUROR COFFMAN: Yes.

24 MR. TIEGER: Okay. Thank you,
25 Ms. Coffman.

1 be that.

2 MR. TIEGER: Okay.

3 PROSPECTIVE JUROR SMITH: That's
4 what I meant by that. I don't just see a
5 person, say, oh, that guy is a bad cop.
6 You have to do things to make me.

7 MR. TIEGER: Gotcha.

8 PROSPECTIVE JUROR SMITH: Saying
9 what you are.

10 MR. TIEGER: Thank you, Mr. Smith.
11 Let's see, Ms. Heintz. Let's see, you're
12 in sales?

13 PROSPECTIVE JUROR HEINTZ: Yeah,
14 I'm actually also in security, but I'm in
15 --

16 MR. TIEGER: And where do you work,
17 a department store?

18 PROSPECTIVE JUROR HEINTZ: I do
19 actually work at three different stores.

20 MR. TIEGER: Okay.

21 PROSPECTIVE JUROR HEINTZ: I work
22 in Clifton, I work in Eastgate -- well,
23 actually I only have those two right now.

24 MR. TIEGER: Are they the same
25 store or different store?

1 PROSPECTIVE JUROR HEINTZ:

2 Different stores.

3 MR. TIEGER: What stores do you
4 work at?

5 PROSPECTIVE JUROR HEINTZ: PacSun
6 and Pangaea.

7 MR. TIEGER: Okay. I know PacSun.
8 And what's the other one?

9 PROSPECTIVE JUROR HEINTZ: It used
10 to be a hippy store. It's right next to
11 the Esquire.

12 MR. TIEGER: Gotcha. On Ludlow?

13 PROSPECTIVE JUROR HEINTZ: Uh-huh.

14 MR. TIEGER: Sitwell's, is that
15 still the coffee shop or whatever?

16 PROSPECTIVE JUROR HEINTZ: I don't
17 really go there.

18 MR. TIEGER: Stay away from there?

19 PROSPECTIVE JUROR HEINTZ: No, they
20 actually opened the coffee shop across
21 the street and they call themselves The
22 Light.

23 MR. TIEGER: So you go to The
24 Light. And what do you do for the
25 stores?

1 PROSPECTIVE JUROR HEINTZ: I'm an
2 opener/closer. I make the deposits. I
3 work alone. I do all the sales, all the
4 windows, all kind of stuff.

5 MR. TIEGER: Okay. And you say --
6 did you say something about security?

7 PROSPECTIVE JUROR HEINTZ: Yeah, I
8 work at pretty much all the local vendors
9 and I do incident reporting.

10 MR. TIEGER: Okay. Do you mean
11 like if a band came to town you would
12 work? When you say "security," what do
13 you mean?

14 PROSPECTIVE JUROR HEINTZ: Yeah.
15 Like -- should I say where I work?

16 MR. TIEGER: Sure.

17 PROSPECTIVE JUROR HEINTZ: River
18 Bend, US Bank arena, the Madison, the
19 Taft Music Hall.

20 MR. TIEGER: Okay. And what type
21 of things would you do in security?

22 PROSPECTIVE JUROR HEINTZ: During
23 the day I actually take care of SAP
24 (phonetic), but in the evening I take
25 care of intoxicated ladies. I take care

1 of the women for the most part or I calm
2 down situations or I write up reports for
3 the police or things like that.

4 MR. TIEGER: All right. Would you
5 ever have to testify at all or go to
6 court on anybody?

7 PROSPECTIVE JUROR HEINTZ: I don't
8 because I'm not involved, but the people
9 I write the reports for, they do.

10 MR. TIEGER: What type of things
11 would you get involved in? Would you
12 ever get involved with people with
13 weapons or --

14 PROSPECTIVE JUROR HEINTZ: No
15 weapons thus far. It's mainly just drugs
16 or alcohol or, you know, fights or things
17 like that.

18 MR. TIEGER: Okay. How do you like
19 that compared to working at a store?

20 PROSPECTIVE JUROR HEINTZ: I like
21 that because it's a lot of fun. I mean,
22 it's fun because it's busy, it's quick
23 and I work with a lot of paramedics.

24 MR. TIEGER: Okay. And your
25 degree, it looks like you have a degree

1 in psychology?

2 PROSPECTIVE JUROR HEINTZ: I have
3 one last class.

4 MR. TIEGER: You have one more to
5 do. Okay. And it looks like there was a
6 lawsuit that you or somebody in your
7 family was involved, with a malpractice
8 case?

9 PROSPECTIVE JUROR HEINTZ: My dad
10 used to own an efficiency and they got
11 their reports but never told them. And
12 he's a musician with the CSO so his hands
13 went numb so he did that.

14 MR. TIEGER: Okay. Is that still
15 going on?

16 PROSPECTIVE JUROR HEINTZ: No,
17 that's done, it's over. It was in like
18 2001 or something.

19 MR. TIEGER: Was he satisfied with
20 the results or not?

21 PROSPECTIVE JUROR HEINTZ: Yes.

22 MR. TIEGER: Okay. Thank you,
23 Ms. Heintz.

24 Let's see, Ms. Bessey.

25 PROSPECTIVE JUROR BESSEY: Contact

1 for Internal Revenue Service.

2 MR. TIEGER: How long have you been
3 at IRS?

4 PROSPECTIVE JUROR BESSEY: Five
5 years.

6 MR. TIEGER: And you have over in,
7 is that Covington?

8 PROSPECTIVE JUROR BESSEY:
9 Covington.

10 MR. TIEGER: What type things do
11 you do over there?

12 PROSPECTIVE JUROR BESSEY: I
13 provide my toll free number for wage
14 investment. Small business owners call
15 me about their tax accounts, majority of
16 the time I'm on the phone.

17 MR. TIEGER: Okay. And it looks
18 like you have prior service, maybe on a
19 civil case?

20 PROSPECTIVE JUROR BESSEY: Yes.

21 MR. TIEGER: And it looks like
22 you're talking about the victim of a
23 crime?

24 PROSPECTIVE JUROR BESSEY: My
25 daughter.

1 MR. TIEGER: Tell me a little bit
2 about that.

3 PROSPECTIVE JUROR BESSEY: She
4 lives up by Standard, a club very close
5 to here, on the dance floor, and there
6 was an altercation and she got hit in the
7 head with a full bottle of beer and was
8 injured.

9 MR. TIEGER: Was anybody ever
10 prosecuted?

11 PROSPECTIVE JUROR BESSEY: No, no.

12 MR. TIEGER: Nobody could say where
13 it came from or anything?

14 PROSPECTIVE JUROR BESSEY: No, no.

15 MR. TIEGER: Did the police get
16 involved?

17 PROSPECTIVE JUROR BESSEY: There
18 was not a police report filed, however
19 Victim of Crimes communicated with her
20 and she just wanted --

21 MR. TIEGER: Is she okay now?

22 PROSPECTIVE JUROR BESSEY: She's
23 fine.

24 MR. TIEGER: Thank you, Ms. Bessey.

25 Mr. Burke, you work for UC?

1 PROSPECTIVE JUROR BURKE: Yes.

2 MR. TIEGER: What do you do for UC?

3 PROSPECTIVE JUROR BURKE: I'm a
4 manager of support services which is part
5 of communications. Earlier you asked if
6 we knew anybody in our impaneled group.
7 I mentioned Mr. Hand and I have met and
8 spoke a few times as we both work for the
9 same communication division at UC.

10 MR. TIEGER: Okay. Mr. Hand, the
11 gentleman -- gotcha. Thank you. So you
12 went to UC and now you work for UC. I
13 guess you like UC.

14 PROSPECTIVE JUROR BURKE: Well, I
15 got a Bachelor's. I was working on a
16 Master's, had to drop out of that
17 program. A friend of mine worked at UC,
18 they had a job opening, I thought I would
19 work there a few years and I have been
20 there 26.

21 MR. TIEGER: Okay. And is the
22 field that you work in, it's not what
23 your degree is in?

24 PROSPECTIVE JUROR BURKE: Not even
25 close.

1 MR. TIEGER: You were going for
2 your Master's in biology?

3 PROSPECTIVE JUROR BURKE: Yes.

4 MR. TIEGER: And then --

5 PROSPECTIVE JUROR BURKE: Now I'm
6 more pretty much a business manager.

7 MR. TIEGER: Okay. What type of
8 stuff do you get involved in at UC?
9 What's your -- is it fundraising?

10 PROSPECTIVE JUROR BURKE: No.

11 MR. TIEGER: Or is it building
12 facilities.

13 PROSPECTIVE JUROR BURKE: The
14 support services is like a -- it's
15 duplicating art design, photo and video.
16 We are a production department. And I
17 coordinate the billing and the ordering
18 of supplies, and that's why the last, you
19 know, going into the third week of trial
20 would be impossible for me, because
21 that's the time that I have to get all
22 the billing together for the month.

23 MR. TIEGER: Okay.

24 PROSPECTIVE JUROR BURKE: And close
25 out the month.

1 MR. TIEGER: And it looks like you
2 have some prior jury service as well?

3 PROSPECTIVE JUROR BURKE: Yes, I
4 served on one before, about ten plus
5 years ago. It was a criminal case,
6 breaking and entering.

7 MR. TIEGER: Did you reach a
8 verdict in that?

9 PROSPECTIVE JUROR BURKE: Yes.

10 MR. TIEGER: Folks, I'll basically
11 stick with you guys, and then I'll talk
12 to you guys as you start coming up here,
13 that would probably be later on today or
14 wednesday. So thank you folks for
15 answering all my question. Judge, I
16 would pass for cause.

17 THE COURT: You passing for cause
18 still?

19 MR. TIEGER: Actually, other than
20 the two.

21 THE COURT: And I'm going to hold
22 off on that because I'm going to question
23 them. And then I want -- Ms. Shanahan,
24 do you have questions you want to ask
25 this panel?

1 MS. SHANAHAN: No, not that panel.
2 Thank you.

3 THE COURT: So now for the
4 defendant, would you like to proceed with
5 voir dire, Mr. Whalen?

6 MR. WHALEN: Thank you, Your Honor.
7 As we indicated before, my name is Bill
8 Whalen. Amy Williams is my co-counsel
9 and we represent Mr. Ruben Jordan. I
10 have got a number of questions. Some of
11 them are going to be directed to an
12 individual and some of them might be a
13 little pointed. And if that occurs, I'm
14 not trying to pick on you. If I don't
15 ask you any questions, I'm not ignoring
16 you, so don't feel that I don't want to
17 talk to you. It's just that your
18 questionnaire or your answers didn't
19 bring any issues up.

20 The potential witnesses we have is
21 Leshuande Ramsey, Deshaunta Ramsey,
22 Ronnel Ramsey, Wooster Osbury, Ron Seay
23 and Anthony Jordan. Does anybody here
24 know any of those names? I'm sorry, it's
25 Ernest Seay.

1 Some of the things that I'm going
2 to talk with you about Mr. Tieger talked
3 with you, I'm going to, at least, I hope,
4 a little different area. Is it
5 Ms. Williams?

6 PROSPECTIVE JUROR WILLIAMS: Uh-huh.

7 MR. WHALEN: Okay. You indicated
8 that you know Officer Rock, I think.

9 PROSPECTIVE JUROR WILLIAMS: Rock.

10 MR. WHALEN: Rock. Okay. And he
11 worked the Fay Apartments for a number of
12 years?

13 PROSPECTIVE JUROR WILLIAMS:
14 Uh-huh.

15 MR. WHALEN: And you got to know
16 him?

17 PROSPECTIVE JUROR WILLIAMS: No, I
18 didn't get to know him personally, I just
19 see him cruising my neighborhood.

20 MR. WHALEN: Okay. Do you believe
21 that he could lie?

22 PROSPECTIVE JUROR WILLIAMS: Yes.

23 MR. WHALEN: Okay. Get on the
24 stand and raise his hand to tell the
25 truth and then lie?

1 PROSPECTIVE JUROR WILLIAMS: Yes.

2 MR. WHALEN: Okay. So because
3 somebody is wearing a uniform and
4 carrying a badge and gun doesn't mean
5 that they are absolutely believable at
6 that time; am I correct?

7 PROSPECTIVE JUROR WILLIAMS: Uh-huh.

8 MR. WHALEN: Okay. Does anybody
9 believe that because an officer comes up
10 with a uniform on and badge, raises his
11 right hand and gets on the stand to
12 testify that you automatically are going
13 to believe that person? And you believe
14 that people -- somebody else mentioned
15 it, and I didn't catch it, said that
16 people come in and lie all the time. So
17 that because somebody took an oath
18 doesn't mean they are automatically
19 telling you the truth, am I correct?

20 PROSPECTIVE JUROR WILLIAMS: But
21 what he's doing his job as far as
22 patrolling the neighborhood and doing
23 what I have seen him do, I feel like he's
24 doing his job.

25 MR. WHALEN: Okay. And you feel

1 safer because he's up there?

2 PROSPECTIVE JUROR WILLIAMS: Yes.

3 MR. WHALEN: Oh, okay. Mr. Rozier,
4 you talked about the fact that you can't
5 believe an admitted killer if he comes in
6 to the courtroom --

7 PROSPECTIVE JUROR ROZIER: Right.

8 MR. WHALEN: -- and testifies, am I
9 correct?

10 PROSPECTIVE JUROR ROZIER: Yeah.

11 MR. WHALEN: Okay. The Judge is
12 going to tell you, I believe is going to
13 tell you that you are the sole judge of
14 the witnesses. In other words, one side
15 puts the witness on, the other side
16 cross-examines them, and then at the end
17 of the case you all go back and make a
18 judgment. And you have to decide whether
19 you believe, disbelieve all or part of
20 what that witness testified.

21 And there is all kinds of things
22 that are going to come into play on that.
23 How a person sits, how they talk, how
24 they explain things, how accurate they
25 seem to you. And if Mr. Rozier -- I

1 mean, if the murderer comes in and says
2 I'm a murderer but he seems very
3 believable to you, he's very sympathetic,
4 he cries, are you going to take those
5 things into consideration?

6 PROSPECTIVE JUROR ROZIER: It could
7 be fake tears.

8 MR. WHALEN: well, I agree with
9 you, but usually you can tell if somebody
10 is faking tears or not. I mean, you have
11 been around long enough to know when
12 people come and tell you a story, you
13 know whether you believe it or not?

14 PROSPECTIVE JUROR ROZIER: Nine
15 times out of ten I'm not believing them.

16 MR. WHALEN: Okay. well, all I'm
17 saying is will you wait if he gets on the
18 stand?

19 PROSPECTIVE JUROR ROZIER: I won't
20 believe him period, simple as that at all
21 because he's a murderer, just as simple
22 as that. I won't believe them at all.

23 MR. WHALEN: And if the Judge tells
24 you that you're to hold your judgment and
25 to listen to what they have got to say

1 first, you're not going to follow her
2 instructions?

3 PROSPECTIVE JUROR ROZIER: I would
4 follow the instructions, but I still
5 wouldn't believe them.

6 MR. WHALEN: Okay. There are a lot
7 of things that come into play on what a
8 person testifies to, and I believe this
9 young man is going to come in and tell
10 you that his father killed somebody and
11 he saw his father do that. I'm also
12 going to tell you, I believe the evidence
13 is going to show, that he was charged
14 with it, that Kareem was charged with
15 this murder that we are hearing today and
16 then turned around and agreed to testify
17 against his father and they dropped the
18 charge.

19 I believe you're also going to find
20 out that if he doesn't come in and do it
21 now, then they're going to charge him.
22 And when they say tell the truth, the
23 prosecutor has already told him he's got
24 to tell the truth, but he's told the
25 truth is that the father did it. Now

1 whether or not his father did it or not
2 is something you all have to decide.

3 But there is little nuances to each
4 one of these witnesses that are going to
5 come in. And with this type of a case,
6 the witnesses that you get aren't from
7 some of the better neighborhoods. And
8 they talked about this occurred around
9 Findlay Market. Does everybody
10 understand that Findlay Market is
11 over-the-Rhine? Everybody knows that?
12 Okay.

13 Somebody is going to come in, one
14 or more people are going to come in and
15 tell you that my client committed this
16 murder. I believe when the Judge gives
17 you the instructions, she's going to tell
18 you that he's cloaked with a cloak of
19 innocence. And at this point in time
20 he's presumed innocent, and unless the
21 State proves beyond a reasonable doubt
22 that he committed this murder, your
23 verdict has to be not guilty. Does
24 anybody have a problem with that?
25 Everybody can accept that?

1 One of the other things that, along
2 with the innocence, Mr. Jordan can take
3 the stand or not take the stand. He can
4 testify in his own defense. Whether he
5 does or doesn't is up to his attorneys.
6 We are going to advise him whether he
7 should testify or not. And if he doesn't
8 testify, the Judge, I believe, is going
9 to tell you you can use that for making a
10 judgment on whether he's innocent or
11 guilty.

12 Does anybody have a problem with
13 that or is somebody here going to say,
14 Mr. Jordan, I want you to stand up and
15 tell us what happened out there. And if
16 he doesn't, you're going to say, well,
17 you're guilty. Can you all follow the
18 law as the Judge gives it to you?

19 Mr. Smith, you talked about you saw
20 something on the news about this case?

21 PROSPECTIVE JUROR SMITH: Yes, I
22 have, in the past.

23 MR. WHALEN: And you have heard
24 details about the case. Would you agree
25 with me that it would be very unfair to

1 find Mr. Jordan either guilty or not
2 guilty based upon what you saw in the
3 news?

4 PROSPECTIVE JUROR SMITH: Could you
5 repeat that again?

6 MR. WHALEN: Sure. Whatever you
7 heard on the news.

8 PROSPECTIVE JUROR SMITH: Yes.

9 MR. WHALEN: Do you think that that
10 is fair to convict or acquit him based
11 upon what you heard on the news?

12 PROSPECTIVE JUROR SMITH: Well, so
13 far what I heard --

14 MR. WHALEN: I don't want you to
15 tell me what you heard.

16 PROSPECTIVE JUROR SMITH: Okay.
17 Yes or no?

18 MR. WHALEN: Yes.

19 PROSPECTIVE JUROR SMITH: I would
20 say yeah, I could probably be unfair.

21 MR. WHALEN: You could be what?

22 PROSPECTIVE JUROR SMITH: Unfair.

23 MR. WHALEN: Unfair.

24 PROSPECTIVE JUROR SMITH: Because
25 of a lot of stuff I heard, you know, kind

1 of make things look like he done it.

2 MR. WHALEN: But the people you
3 heard from didn't see it, didn't
4 participate, investigate it.

5 PROSPECTIVE JUROR SMITH: Well, I
6 mean you want me to elaborate on what I
7 heard?

8 MR. WHALEN: No, sir, I do not want
9 you to elaborate on what you heard.

10 PROSPECTIVE JUROR SMITH: But the
11 point is they kind of made it like his
12 son had accused him and like he was
13 guilty.

14 MR. WHALEN: Well, there is no
15 doubt.

16 PROSPECTIVE JUROR SMITH: That's
17 the way I'm saying -- that's the way I
18 heard it appeared.

19 MR. WHALEN: The son accused him,
20 there is no doubt about that. He made a
21 deal with the prosecutors and the police
22 and said my dad did it. Okay.

23 PROSPECTIVE JUROR SMITH: Yep.

24 MR. WHALEN: But what I'm saying is
25 whether he did it or not is up to this

1 jury to decide that, not up to the news
2 media.

3 PROSPECTIVE JUROR SMITH: Yeah.

4 MR. WHALEN: So you agree with me
5 that you can't always believe what you
6 hear in the news media?

7 PROSPECTIVE JUROR SMITH: Well, by
8 his statement, yeah, I know you can.

9 MR. WHALEN: Okay.

10 PROSPECTIVE JUROR SMITH: Because
11 they said that he -- that he had -- that
12 once he admitted that his father did it
13 that case was shut down and boom,
14 straight onto him.

15 MR. WHALEN: There is no doubt
16 about that. The son said my dad did it
17 and they went after dad.

18 PROSPECTIVE JUROR SMITH: That made
19 me assume right then and there that he
20 might have been guilty.

21 MR. WHALEN: Well, do you agree
22 with me that they have to prove beyond a
23 reasonable doubt.

24 PROSPECTIVE JUROR SMITH: Yeah.
25 Yeah.

1 MR. WHALEN: Okay. And whatever
2 you heard, once you go back with the rest
3 of the jurors and make a decision, you're
4 going to put out of your mind what you
5 heard on the news or are you going to
6 bring that in with you?

7 PROSPECTIVE JUROR SMITH: Well,
8 based on what I heard in the courtroom.

9 MR. WHALEN: Okay. And you're
10 going to ignore what you heard on the
11 news?

12 PROSPECTIVE JUROR SMITH: Yes.

13 MR. WHALEN: Okay. One of the
14 other legal concepts that we are dealing
15 with, and Mr. Tieger talked with you
16 about some of them, we filed a notice of
17 alibi. And I know a lot of people have
18 heard that on different TV shows, but
19 basically a notice of alibi says it
20 wasn't me, I was somewhere else, and they
21 bring in witnesses to say where they are
22 at at that time. Does that concept of an
23 alibi bother anybody? Do they feel like
24 it's an unfair or improper defense?

25 Ms. Williams, the look on your face

1 is scaring me.

2 PROSPECTIVE JUROR WILLIAMS: You
3 scaring me.

4 MR. WHALEN: You feel that that's
5 not a proper defense?

6 PROSPECTIVE JUROR WILLIAMS: Yeah,
7 I feel like it is.

8 MR. WHALEN: Okay. And if we
9 present that, you'll listen to it?

10 PROSPECTIVE JUROR WILLIAMS: Uh-huh.

11 MR. WHALEN: Okay. And we have got
12 a burden of proof with that, and the
13 Judge will tell you what it is. And if
14 we don't meet that, then you don't
15 believe it.

16 PROSPECTIVE JUROR WILLIAMS: Right.

17 MR. WHALEN: Okay. Ms. McKeehan,
18 you indicated in your examination by the
19 prosecutor that people lie. You
20 understand that?

21 PROSPECTIVE JUROR MCKEEHAN: Yes.

22 MR. WHALEN: They do all the time.
23 They have done it about you, and so when
24 you listen to a case like this,
25 especially with the consequences that are

1 involved, you understand that you're
2 going to have to weigh that testimony
3 that you have and the evidence that you
4 have and judge whether or not it's
5 truthful and whether it's enough to prove
6 to you that Mr. Jordan committed this
7 crime and prove to you beyond a
8 reasonable doubt?

9 PROSPECTIVE JUROR MCKEEHAN: Yes.

10 MR. WHALEN: Okay. And if they
11 were talking about DNA, would you agree
12 with me that if there was a burglary
13 here, and one of the Judge's lamps were
14 stolen and it was found down the hall and
15 they found my fingerprints on it, it
16 doesn't necessarily mean that I took it?

17 PROSPECTIVE JUROR MCKEEHAN: That's
18 right.

19 MR. WHALEN: Okay. Ms. Binkley,
20 I'm going to pick on you for a while.

21 PROSPECTIVE JUROR BINKLEY: Great.

22 MR. WHALEN: You indicated in one
23 of your answers that you're fair minded
24 and you're going to listen to all the
25 evidence.

1 PROSPECTIVE JUROR BINKLEY: Yes.

2 MR. WHALEN: And the attorneys have
3 to prove things to you?

4 PROSPECTIVE JUROR BINKLEY: Yes.

5 MR. WHALEN: Okay. By the law, the
6 Judge is going to tell you we don't have
7 to prove anything to you for Mr. Jordan.
8 We can sit there and not do anything
9 throughout this whole trial. And when
10 it's over with, the Judge says, you know,
11 you have to go back and make a decision
12 and we do not have to put any evidence
13 on. You understand we don't have to
14 prove anything unless we put an alibi on,
15 we have to prove that, but beyond that we
16 don't have to prove anything. And if we
17 sit there throughout that trial and don't
18 do anything, do you feel that the
19 prosecutor proved their case?

20 PROSPECTIVE JUROR BINKLEY: Yes,
21 it's up to the prosecutor to convince me.

22 MR. WHALEN: Okay. Beyond a
23 reasonable doubt.

24 PROSPECTIVE JUROR BINKLEY: Beyond
25 a reasonable doubt?

1 MR. WHALEN: And you have no
2 problems with that?

3 PROSPECTIVE JUROR BINKLEY: Yeah.
4 The burden is on them.

5 MR. WHALEN: Okay. Mr. Fitzgerald,
6 you said something about making in your
7 job that things have to come out exact,
8 the figures, am I correct?

9 PROSPECTIVE JUROR FITZGERALD: No.
10 well, I think the question was I have
11 liberty to do what I want with my
12 clients.

13 MR. WHALEN: No. No.

14 PROSPECTIVE JUROR FITZGERALD: I
15 don't actually do -- I'm not an
16 accountant so I don't have that big
17 issue.

18 MR. WHALEN: But your books have to
19 balance?

20 PROSPECTIVE JUROR FITZGERALD:
21 Sure.

22 MR. WHALEN: And things have to
23 equal out?

24 PROSPECTIVE JUROR FITZGERALD: Sure.

25 MR. WHALEN: Okay. Things aren't

1 that exact all the time. In criminal
2 law, things don't always come out the
3 way -- just the way that they should.
4 And can you, and I'm assuming you're
5 going to have to step out of your
6 experience and step into a totally
7 different experience and weigh the
8 evidence and have the prosecutor prove it
9 to you beyond a reasonable doubt.

10 Now nobody is going to tell you
11 that that's .10 or .95. It's a decision
12 based upon the Judge's explanation to you
13 about what beyond a reasonable doubt is.
14 So can you put aside, if need be, any
15 experiences you have in balancing the
16 books and understanding that numbers have
17 to come out?

18 PROSPECTIVE JUROR FITZGERALD: Yes.

19 MR. WHALEN: Okay. The prosecutor
20 talked to you about things that you're
21 going to see, photographs you're going to
22 see, the coroner's photograph, a person
23 on a slab. You're going to see a person
24 dead on the street, and it's not a pretty
25 scene, and it has to evoke emotions. I

1 don't care who you are. You see those
2 kind of things, you see sympathy for the
3 person that died, for the family that is
4 involved, and what this person may or may
5 not have suffered, but it doesn't mean
6 that Mr. Jordan did that.

7 And the other thing is the Judge is
8 going to tell you in her instructions
9 when you go back to that jury room, you
10 put aside all passion and prejudice that
11 you may have and you reach a decision
12 based solely upon the evidence in this
13 case. Is there anybody here that cannot
14 do that? Okay. No matter what the
15 prosecutor tells you, no matter what the
16 defense tells you, when you get back into
17 that jury room, the decision is made by
18 you, and based upon the evidence and the
19 instructions on the law from the Judge.
20 That's it. Do you have any problems with
21 that?

22 I believe that the Judge is going
23 to give all of you notebooks so that you
24 can take notes during the trial. And
25 she's also going to tell you how you can

1 and cannot use those notes. Will you
2 listen to what she tells you and follow
3 her instructions?

4 PROSPECTIVE JURORS: Yes.

5 MR. WHALEN: MS. McKinney, you have
6 been doing what you have been doing since
7 April?

8 PROSPECTIVE JUROR MCKINNEY: No, I
9 have been in pharmacy for about ten years
10 but at Mercy.

11 MR. WHALEN: Oh, okay. How did you
12 get into that field?

13 PROSPECTIVE JUROR MCKINNEY: It was
14 a job I had in high school, part-time job
15 when I turned 18.

16 MR. WHALEN: Something you liked
17 doing?

18 PROSPECTIVE JUROR MCKINNEY: Uh-huh.

19 MR. WHALEN: Thank you.
20 Ms. Messerschmitt?

21 PROSPECTIVE JUROR MESSERSCHMITT:
22 Yes.

23 MR. WHALEN: I'm not sure I
24 understand what it is that you do. Can
25 you explain that to me again?

1 PROSPECTIVE JUROR MESSERSCHMITT:

2 Right now I'm unemployed.

3 MR. WHALEN: I'm sorry. What you
4 did do?

5 PROSPECTIVE JUROR MESSERSCHMITT:

6 Oh, I was a senior administrative
7 assistant. I worked for a pharmaceutical
8 research organization, and what I did is
9 I supported senior vice-presidents,
10 vice-presidents sales teams who would go
11 out and do presentations to
12 pharmaceutical companies. Those are the
13 kind of things I did, answered the phone,
14 filing, expense reports, travel, that
15 kind of stuff.

16 MR. WHALEN: I didn't understand
17 your words about support. What does the
18 support involve?

19 PROSPECTIVE JUROR MESSERSCHMITT:
20 Support means that I have 20 people that
21 I'm in charge of making sure their
22 calendar is up-to-date, that their
23 expenses are up-to-date, that their
24 travel arrangements were correct. Make
25 sure they are meeting, that they get to

1 the meeting, those kinds of things, just
2 to make their daily jobs run smoother.

3 MR. WHALEN: It looks like most of
4 your family is involved with the
5 automotive industry.

6 PROSPECTIVE JUROR MESSERSCHMITT:
7 My husband, yes.

8 MR. WHALEN: And your son is a
9 truck driver?

10 PROSPECTIVE JUROR MESSERSCHMITT:
11 Yeah, they distribute or deliver Arizona
12 Tea, Red Bull that buy distributing.

13 MR. WHALEN: Were you the one that
14 had the uncle who was convicted of
15 domestic violence?

16 PROSPECTIVE JUROR MESSERSCHMITT:
17 No, sir.

18 MR. WHALEN: Who was that?

19 PROSPECTIVE JUROR MCKINNEY: I was.

20 MR. WHALEN: Okay. I'm sorry.

21 Ms. McKinney, right?

22 PROSPECTIVE JUROR MCKINNEY: Uh-huh.

23 MR. WHALEN: And it appeared that
24 that case was one that was involved in a
25 trial. In other words, they brought

1 witnesses in and testified?

2 PROSPECTIVE JUROR MCKINNEY: I
3 think she just -- wife showed up and
4 testified.

5 MR. WHALEN: Okay.

6 PROSPECTIVE JUROR MCKINNEY: I
7 don't know all the specifics of the case,
8 but I know he had to do time for it.

9 MR. WHALEN: Okay. And what state
10 was that in?

11 PROSPECTIVE JUROR MCKINNEY: In
12 Cincinnati.

13 MR. WHALEN: Okay. Ms. Williams,
14 how long have you been working where
15 you're at now at Barrington?

16 PROSPECTIVE JUROR WILLIAMS: Since
17 June.

18 MR. WHALEN: June of --

19 PROSPECTIVE JUROR WILLIAMS: '09.

20 MR. WHALEN: -- of 2010?

21 PROSPECTIVE JUROR WILLIAMS: I keep
22 saying '09, 2010.

23 MR. WHALEN: What did you do before
24 that?

25 PROSPECTIVE JUROR WILLIAMS: I

1 worked at the convention center over in
2 Kentucky. I'm a chef so I do the cooking
3 at the nursing home too.

4 MR. WHALEN: Okay. Do you work
5 somewhere else besides Barrington now?

6 PROSPECTIVE JUROR WILLIAMS: No.

7 MR. WHALEN: Okay. Thank you.
8 Ms. McKeehan?

9 PROSPECTIVE JUROR MCKEEHAN: Yes,
10 sir.

11 MR. WHALEN: You were robbed on the
12 L train in Chicago. Would you say it was
13 about six years ago?

14 PROSPECTIVE JUROR MCKEEHAN: More
15 like 16 years ago.

16 MR. WHALEN: Oh, 16 years ago.

17 PROSPECTIVE JUROR MCKEEHAN: A long
18 time ago.

19 MR. WHALEN: Was there anything in
20 that experience that you feel that you
21 would bring to this trial?

22 PROSPECTIVE JUROR MCKEEHAN: I
23 don't think so. I mean, it was pretty --
24 it's pretty stupid of me to be on a car
25 all by myself at that time, that part of

1 Chicago that I was in. Just stupid thing
2 I guess.

3 MR. WHALEN: Well, this is kind of
4 on the side, but didn't anybody from the
5 train system say anything to you?

6 PROSPECTIVE JUROR MCKEEHAN: It
7 happens all the time, I shouldn't have
8 been in the car by myself which I said
9 okay, well --

10 MR. WHALEN: Well, I don't know
11 that much about Chicago but I had
12 occasion with another attorney who rides
13 on the L and the train stopped at a
14 location and the conductor came back and
15 said we hope you enjoyed your ride but
16 from this point on we can't guarantee
17 your safety. And needless to say, we got
18 off. But I thought it was very nice of
19 them to come back and tell us that, you
20 know, beyond this point it's not very
21 safe. So I just wondered whether or not
22 they were still doing that. But I think
23 it may have been more than 16 years ago.

24 PROSPECTIVE JUROR MCKEEHAN: I do
25 ride that ride very often, obviously, or

1 I would not want to be in there.

2 MR. WHALEN: Mr. Fitzgerald, one of
3 the organizations you belong to is the
4 Police Cadets of America?

5 PROSPECTIVE JUROR FITZGERALD:
6 Correct.

7 MR. WHALEN: I would guess that
8 that's because of your son?

9 PROSPECTIVE JUROR FITZGERALD:
10 Correct.

11 MR. WHALEN: How long have you been
12 doing that?

13 PROSPECTIVE JUROR FITZGERALD:
14 About seven, eight years.

15 MR. WHALEN: Your wife works with
16 human resources for Fifth Third?

17 PROSPECTIVE JUROR FITZGERALD:
18 Right.

19 MR. WHALEN: And how long has she
20 been doing that?

21 PROSPECTIVE JUROR FITZGERALD: Five
22 or six years. She did the same thing for
23 Fidelity.

24 MR. WHALEN: Thank you.

25 Ms. Binkley, I've already talked to you

1 once. We've relieved some of your
2 anxiety?

3 PROSPECTIVE JUROR FITZGERALD: Yes,
4 you have. Yes, I seem to be doing well.

5 MR. WHALEN: The fact that you were
6 robbed at gunpoint, do you feel that that
7 would carry over into Mr. Jordan's trial?

8 PROSPECTIVE JUROR BINKLEY: It's
9 been more than 30 years ago.

10 MR. WHALEN: Okay.

11 PROSPECTIVE JUROR BINKLEY: Yeah.

12 MR. WHALEN: You were two years old
13 at the time that happened?

14 PROSPECTIVE JUROR BINKLEY: Two
15 years old. You got it.

16 MR. WHALEN: You have a son that's
17 a laborer. Who does he work for?

18 PROSPECTIVE JUROR BINKLEY: Well,
19 what he does, and I can't remember the
20 name of the company he works for, but he
21 maintenances x-ray machines.

22 MR. WHALEN: Okay.

23 PROSPECTIVE JUROR BINKLEY: Yeah.

24 MR. WHALEN: You've had a matter
25 yourself that was in the court system?

1 PROSPECTIVE JUROR BINKLEY: I've
2 had what?

3 MR. WHALEN: A case in the court
4 system. It says here you were divorced.

5 PROSPECTIVE JUROR BINKLEY: Yeah, I
6 was going to say, what is that? Yeah,
7 I'm divorced. I have been divorced for,
8 oh my God, more years than I was ever
9 married.

10 MR. WHALEN: Okay. Is there
11 anything about being in the court system
12 that put a bad taste in your mouth?

13 PROSPECTIVE JUROR BINKLEY: No.

14 MR. WHALEN: Okay. So attorneys
15 didn't offend you or the Court didn't
16 offend you?

17 PROSPECTIVE JUROR BINKLEY: That
18 was all a good thing.

19 MR. WHALEN: Thank you.
20 Ms. Coffman, it sounds like you've had a
21 number of different jobs and you were
22 years ago, in 1982, on a jury in Clermont
23 County?

24 PROSPECTIVE JUROR COFFMAN: They
25 excused me, so I never --

1 MR. WHALEN: So you didn't sit?

2 PROSPECTIVE JUROR COFFMAN: No.

3 MR. WHALEN: Okay. I have to ask
4 you the list of clubs or organizations
5 you belong to, and this first one is this
6 TTT?

7 PROSPECTIVE JUROR COFFMAN: Yes,
8 it's an organization of women and we
9 work the whole year to send
10 underprivileged girls to camp and we stay
11 with these girls for a year in hopes some
12 day that maybe they will join us or we
13 can make some huge difference in their
14 life.

15 MR. WHALEN: And how long have you
16 been doing that?

17 PROSPECTIVE JUROR COFFMAN: Three
18 years now.

19 MR. WHALEN: And I'm getting the
20 impression you enjoy doing that?

21 PROSPECTIVE JUROR BINKLEY: It's
22 very rewarding, yes.

23 MR. WHALEN: Good. And what is
24 TPHS?

25 PROSPECTIVE JUROR COFFMAN: Terrace

1 Park Historical Society.

2 MR. WHALEN: Okay. You have a
3 child, whether it's a son or daughter,
4 who's a teacher in Dallas?

5 PROSPECTIVE JUROR COFFMAN:
6 Daughter in Dallas.

7 MR. WHALEN: Is she married?

8 PROSPECTIVE JUROR COFFMAN: No.

9 MR. WHALEN: Okay. Thank you.
10 Mr. Smith, you and I have talked already
11 so I won't pick on you again.

12 Ms. Heintz, you've had -- as a
13 result of what you do, I get the
14 impression you have a lot of contact with
15 police officers and firemen, am I
16 correct?

17 PROSPECTIVE JUROR HEINTZ: Not so
18 much police or paramedics.

19 MR. WHALEN: Okay. But police are
20 not called periodically?

21 PROSPECTIVE JUROR HEINTZ: They are
22 outside of the gate.

23 MR. WHALEN: And do you have to
24 ever give them reports about what you
25 saw?

1 PROSPECTIVE JUROR HEINTZ: I'm more
2 responsible for staff. I mean I really
3 don't have friends with the staff. If
4 someone is involved in a fight, I get
5 their report and then I take that to our
6 records, but the staff will get the
7 reports separately to the police.

8 MR. WHALEN: Okay.

9 PROSPECTIVE JUROR HEINTZ: I don't
10 write anything for the police.

11 MR. WHALEN: So you -- and none of
12 the names of police officers that were
13 read don't do anything for you?

14 PROSPECTIVE JUROR HEINTZ: No, only
15 name I know of is the Lloyd, Sheriff
16 Lloyd.

17 MR. WHALEN: Okay. And do you
18 believe that police officers
19 automatically tell the truth when they
20 come in the courtroom and raise their
21 hand?

22 PROSPECTIVE JUROR HEINTZ: I hope
23 so. It would depend on their character.

24 MR. WHALEN: You would do what?

25 PROSPECTIVE JUROR HEINTZ: Depend

1 on their character.

2 MR. WHALEN: Well, you're not going
3 to know their character when they come
4 in. If a police officer comes in and
5 raises his right hand and swears to tell
6 the truth, are you going to believe that
7 he's telling the truth?

8 PROSPECTIVE JUROR HEINTZ: I think
9 so, yes.

10 MR. WHALEN: You have a brother
11 who's an attorney?

12 PROSPECTIVE JUROR HEINTZ: He does
13 property with buildings.

14 MR. WHALEN: So he doesn't go into
15 courtrooms?

16 PROSPECTIVE JUROR HEINTZ: No, he
17 doesn't.

18 MR. WHALEN: Thank you.
19 Ms. Bessey?

20 PROSPECTIVE JUROR BESSEY: Yes.

21 MR. WHALEN: How long have you
22 worked for the IRS?

23 PROSPECTIVE JUROR BESSEY: Five
24 years.

25 MR. WHALEN: When you say you had a

1 great respect for the law, can you tell
2 me what you mean by that?

3 PROSPECTIVE JUROR BESSEY: Well, to
4 have in society no right from wrong.

5 MR. WHALEN: I'm sorry?

6 PROSPECTIVE JUROR BESSEY: I do
7 have great respect for them for that
8 reason. Not necessarily --

9 MR. WHALEN: Do you ever think they
10 make mistakes?

11 PROSPECTIVE JUROR BESSEY: Yes.

12 MR. WHALEN: Do you think they ever
13 lie?

14 PROSPECTIVE JUROR BESSEY: Yes.

15 MR. WHALEN: Please?

16 PROSPECTIVE JUROR BESSEY: Yes.

17 MR. WHALEN: Will you hold the
18 prosecutors to their burden that the
19 Court is going to tell you that they
20 have?

21 PROSPECTIVE JUROR BESSEY: Yes.

22 MR. WHALEN: And if they don't do
23 that, Mr. Jordan can get up and walk out
24 of the courtroom with you all, get on the
25 elevator and go home?

1 PROSPECTIVE JUROR BESSEY: Yes.

2 MR. WHALEN: And this doesn't
3 brother you. Okay. Mr. Burke, you
4 indicated on your questionnaire that you
5 are separated?

6 PROSPECTIVE JUROR BURKE: Yes.

7 MR. WHALEN: There is a divorce
8 pending?

9 PROSPECTIVE JUROR BURKE: Possibly.
10 We haven't worked that out.

11 MR. WHALEN: Okay. And how long
12 have you been separated?

13 PROSPECTIVE JUROR BURKE: A little
14 over two years.

15 MR. WHALEN: And you sat some years
16 ago on a criminal case?

17 PROSPECTIVE JUROR BURKE: Yes.

18 MR. WHALEN: And you don't remember
19 what it was?

20 PROSPECTIVE JUROR BURKE: Breaking
21 and entering.

22 MR. WHALEN: Okay. And there isn't
23 anything about that that you would carry
24 into this case?

25 PROSPECTIVE JUROR BURKE: No,

1 nothing, just the experience of having
2 done it once before, but --

3 MR. WHALEN: But there wasn't a bad
4 experience sitting down with 11 other
5 people and trying to hash out a decision?

6 PROSPECTIVE JUROR BURKE: Not
7 really.

8 MR. WHALEN: And not a bad
9 experience with the Judge or jurors,
10 attorneys involved?

11 PROSPECTIVE JUROR BURKE: No.

12 MR. WHALEN: One of the things that
13 the Court is going to tell you, I
14 believe, is that 12 of you are going to
15 go back and make a decision on this case.
16 And you have to reach unanimous decisions
17 and it can't be ten to 12 or nine to
18 three. It has to be all. It has to be
19 unanimous. Can each of you sit down with
20 the rest of the jurors and give or take,
21 listen to what they got to say, express
22 your opinion and believe that you can
23 come to a unanimous decision? Is there
24 anybody here who feels they cannot do
25 that?

MR. WHALEN: I have no other questions, Your Honor, and I'll pass for

1 cause.

2 THE COURT: I'm going to ask Mr.
3 Leon Rozier, that -- are there any
4 circumstances under which you would be
5 able to say that you could render a
6 decision in this case, sir? Are you
7 really conveying to the Court that you
8 find you're just not going to be able to
9 believe the prosecution's case because of
10 the main witness and you just can't get
11 past that?

12 PROSPECTIVE JUROR ROZIER: I can't
13 get past that.

14 THE COURT: Okay. Then anything
15 you want -- I'm inclined to grant the
16 motion to excuse him for cause. He's
17 honestly relayed that information. So
18 you are excused for cause.

19 (Prospective Juror Rozier excused
20 for cause.)

21 THE COURT: And we are going to
22 seat number -- in number 1's place will
23 be seated Dorothy Spencer. But we're
24 first going to take a break. I think
25 everybody would like to have that.

1 MR. TIEGER: Judge, I think
2 Mr. Smith was the same, had the same, I
3 think, viewpoints.

4 THE COURT: Well, Mr. Smith, let me
5 do that with you because I began to hear
6 things from you as you were questioned.
7 Do you also feel that you are unable, no
8 matter what the circumstances are, or
9 what the Court's instructions are, that
10 you would find that you could not believe
11 anything no matter what you heard from
12 the stand?

13 PROSPECTIVE JUROR SMITH: I would
14 have more of a leaning towards not
15 believing him.

16 THE COURT: And more of a leaning,
17 and you can't get past that today?

18 PROSPECTIVE JUROR SMITH: Not
19 really.

20 THE COURT: Okay. So even though
21 you have gone through a voir dire
22 process, you essentially feel that you
23 are unable to render any verdict in all
24 if the State -- you cannot find a guilty
25 finding if the State's case relies upon a

1 murderer or testimony from drug dealers?

2 PROSPECTIVE JUROR SMITH: Yeah, I
3 don't tend to believe that, you know, the
4 character is kind of shady to me.

5 THE COURT: All right. Then that
6 being the case, I'm going to excuse both
7 of you. Number one and Mr. Michael Smith
8 who is Number nine, and we are going to
9 take a break, and we'll come back and
10 seat the other jurors. We are going to
11 break for ten minutes until 3:35.

12 (The jury leaving the courtroom at
13 3:25 p.m.)

14 THE COURT: Counsels, we are going
15 to come back at quarter to four. I guess
16 you want to go through the process to
17 seating these last two and adjourn for
18 the day?

19 MR. TIEGER: That sounds good,
20 Judge. Ms. Spencer has issues too. We
21 are not going to get through jury
22 selection.

23 THE COURT: No, no, we are not
24 going to get through that, but we'll
25 work, continue it until tomorrow. I

1 don't know if you want to --

2 MR. TIEGER: Tomorrow, I don't
3 know, I haven't seen the latest weather.

4 MR. WHALEN: I can go through and
5 look at the status.

6 THE COURT: We'll decide whether we
7 are going to break for now or try to get
8 to the last two. Of course, that could
9 go on and on.

10 MR. TIEGER: It does.

11 THE COURT: I mean for cause, get
12 past the cause part and do the
13 peremptories, and --

14 MR. TIEGER: You're right, Judge.
15 The next one is another problem.

16 (Recess.)

17 THE COURT: Counsel, I think you're
18 going to make a motion for cause on
19 Ms. Spencer?

20 MR. TIEGER: Yes.

21 THE COURT: And are you going to
22 object to that?

23 MR. WHALEN: Which one is this now?

24 THE COURT: The lady who said her
25 son is in jail and prison will relate

1 back to her.

2 MR. WHALEN: No.

3 THE COURT: You're not going to
4 object to that?

5 MR. WHALEN: No.

6 THE COURT: So we can just let her
7 go. Well, let's bring them in and we
8 are -- you want to question the other
9 two, Mr. Burke and Mr. Obst, today or
10 start that tomorrow?

11 MR. TIEGER: Judge, we are not
12 going to get a heck of a lot more done
13 today.

14 THE COURT: No, we are not.

15 MR. TIEGER: I would probably be
16 better just to stop for the day, and then
17 start -- tomorrow is the alleged snow
18 day, Judge. And I think what
19 Ms. Shanahan and I were talking about
20 that probably everybody could get here,
21 but if you only have one or two --

22 THE COURT: Yeah, I'm keeping up
23 with the snow day thing because going
24 home or coming in, either way with five
25 or six inches is not a good thing.

1 MR. TIEGER: You're going to have
2 somebody scared --

3 THE COURT: Or won't come.

4 MR. TIEGER: Yeah. So if we have
5 26 hear and one or two missing, we are
6 not going to be able to do anything. I
7 think it's better to call off tomorrow.

8 THE COURT: Why don't we call
9 Ms. Spencer in as though she's having a
10 private sidebar.

11 MR. WHALEN: Could I address two
12 others issues?

13 THE COURT: I'll have the jury come
14 in and do the admonishment.

15 MR. WHALEN: One, I don't think you
16 gave this instruction, but when I went
17 into the restroom Mr. Fitzgerald was in
18 there. I would like for you to tell them
19 that the attorneys aren't going to talk
20 to them, and --

21 THE COURT: I'm going to go through
22 the whole thing, full admonishment
23 because we are going to adjourn for the
24 day.

25 MR. WHALEN: The second thing is

1 Mr. Jordan is right here right now. I
2 want him to tell the Court he's going to
3 waive his presence whenever we do the
4 view of the scene.

5 THE DEFENDANT: Yes, I will.

6 THE COURT: So the record here --
7 we are back on record. State vs. Ruben
8 Jordan, and not yet -- not yet we'll come
9 and get you, sir -- Mr. Jordan, do you
10 want him to stay or can he just stay
11 there, counsel.

12 MR. WHALEN: I have told him that
13 he has a right to go to the view of the
14 scene, but I would like for him to waive
15 that. He's indicated he's going to
16 follow my instructions and he's going to
17 waive his presence at the view of the
18 scene.

19 THE COURT: All right. That is so
20 noted.

21 MR. WHALEN: Okay. Thank you.

22 THE COURT: At this time, bring the
23 jury in so I can give them -- to let
24 Ms. Spencer be released, and then we are
25 going to adjourn for the day, and we'll

1 deal with the rest of the jurors
2 tomorrow.

3 (The jury entering the courtroom at
4 3:44 p.m.)

5 THE COURT: All right. You may all
6 be seated. Whenever you get seated. And
7 back on the record on State vs. Ruben
8 Jordan. We have already discussed the
9 matter of Ms. Dorothy Spencer. The
10 State, would you like to make a motion?

11 MR. TIEGER: Judge, I have got no
12 trouble if she's excused for cause in
13 this case based on what she said before.

14 THE COURT: Do you object, from the
15 defense?

16 MR. WHALEN: No, Your Honor.

17 THE COURT: Ms. Spencer, we are
18 going to thank and excuse you for cause.
19 You are released from jury service in
20 this case, and you are to report to
21 whatever she tells you to do, so go back
22 to the jury commission office. Thank
23 you.

24 And for everyone else, we are going
25 to -- we have decided that we are going

1 to continue the juror voir dire on
2 Wednesday morning at 10:00 a.m. There is
3 to be expected five or six inches of
4 snow, and it will be basically cleared up
5 by Wednesday morning.

6 So with that in mind, there is
7 something we get called the admonition,
8 and this is very important to you to
9 understand, and that is that you have to
10 remain fair and attentive throughout the
11 trial and throughout this jury process.
12 Do not discuss this case among yourselves
13 until it is finally submitted to you, or
14 to even -- and also you cannot discuss it
15 among yourselves or with anyone else. Do
16 not permit anyone to discuss it with you
17 or in your presence; other jurors, the
18 party, the witnesses, the attorney, the
19 bailiff, anyone including myself. Do not
20 form or express any opinion on the case
21 until it is finally submitted to you.

22 Perhaps more difficult to
23 understand is that you may not discuss
24 this case among yourselves until
25 submitted to you, because you're gonna

1 spend a lot of time by yourselves during
2 recesses and at lunches, so you have to
3 resist that urge to talk. You will
4 receive the opening statements and then
5 the evidence, and then the arguments of
6 counsel and then the law, the
7 instructions of the law from me and in
8 that order.

9 So it would be unfair for you to
10 discuss the case among yourselves before
11 you receive everything necessary for your
12 deliberations. You must explain this
13 rule to your family and friends since
14 this matter is expected to continue more
15 than one day or even more than one week.

16 Do not talk with the attorneys, the
17 parties or the witnesses during the
18 trial. Likewise, the participants in the
19 trial must not talk with you. If anyone
20 should attempt to discuss the case with
21 you, please immediately report to either
22 the bailiff -- report the incident either
23 to the bailiff or to my law clerk, Scott
24 Brenner.

25 You may not investigate or attempt

1 to obtain additional information on this
2 case outside of the courtroom. It's
3 highly improper for any one of you to do
4 this. So that means you are instructed
5 not to read, view or listen to any report
6 in the newspaper, the radio or the
7 television on the subject of this trial.
8 And that would include going -- now we
9 have to include very, very extensive jury
10 instructions about not going on the
11 Internet and Facebook and You-Tube, and
12 there is so many new devices showing up,
13 Google. I think you understand that you
14 are not to use the electronic information
15 in any way to affect this trial or to
16 obtain additional information.

17 And as this trials goes on you'll
18 be getting coroner reports and scientific
19 evidence, and we don't want you to start
20 investigating what all that is about
21 because you're gonna receive everything
22 that both sides feel is necessary for you
23 to make a decision and this Court feels
24 is necessary for you to make a decision.
25 If we think you need to know something

1 beyond what is given, you'll also receive
2 that.

3 So you have to decide this case
4 only upon the evidence received in the
5 courtroom, that would be from the witness
6 stand and exhibits. And if the parties
7 stipulate, that means that they agree
8 that something is a fact, that this
9 exhibit or this piece of paper, you don't
10 have to question this piece of paper
11 because we both agree that it's a fact,
12 it's true, and we'll tell you when that
13 has happened.

14 If you should acquire information
15 from an outside source, you must not
16 report it to other jurors and you must
17 disregard it in your deliberations. But
18 you should tell the Court, because if you
19 get a phone call from someone, newspaper
20 reporters or somebody connected to this
21 case, you are to report that to the
22 Court.

23 To be fair, I have to caution you
24 now that you may be questioned later by
25 the Court to find out if you did read or

1 view or listen to any report concerning
2 this trial contrary to my instructions.
3 And when your duty is completed, of
4 course you may discuss the case and your
5 experiences as a juror, but you are not
6 required to do so. You don't have to.
7 So until that moment you must follow
8 carefully these instructions and control
9 your natural desire to discuss the case
10 except when it's finally submitted to you
11 by the Court.

12 If during the trial you have a
13 personal problem, you may explain that
14 matter to the bailiff and they will
15 report that to me and we'll decide how we
16 should deal with that. Every effort will
17 be made to accommodate you and we will be
18 taking frequent breaks as mentioned.

19 There is some instructions that say
20 I should repeat this every time we take a
21 recess unless you listen carefully.
22 Anybody need to hear it again? Do you
23 think you got this very well understood?
24 So you need to understand that this
25 applies to every recess that we take,

1 every break and during lunch and
2 especially overnight. And so I'll remind
3 you briefly each time we take a recess.
4 Other than that, they do apply to your
5 conduct throughout the trial. Thank you
6 very much and we are adjourned.

7 MR. TIEGER: Judge, one other
8 thing.

9 THE COURT: Yes.

10 MR. TIEGER: Juror Number 28,
11 Mr. Sheffield, I know he had noted before
12 that his grandfather I think is in
13 dialysis.

14 THE COURT: Yes.

15 MR. TIEGER: Wednesday mornings at
16 11.

17 THE COURT: That is correct.
18 Mr. Sheffield, are you here still?

19 PROSPECTIVE JUROR SHEFFIELD: Yes.

20 THE COURT: Then he's excused for
21 cause based if -- he cannot be here
22 wednesday and participate.

23 MR. WHALEN: I think he should,
24 Your Honor.

25 THE COURT: Sir, you are thanked

1 and excused for cause --

2 PROSPECTIVE JUROR SHEFFIELD: Thank
3 you.

4 THE COURT: -- sir, because of
5 that. I believe that -- let's see. Is
6 there anyone else whose hand went up
7 saying they are not available for the
8 rest of the week and next week? I don't
9 recall anybody else.

10 MR. TIEGER: Judge, do you want
11 them to report to the Jury Commissioner
12 then at 10:00?

13 THE COURT: Yes, because we don't
14 have enough room for them. We'll come
15 and get you at the right time. There is
16 more space and magazines up there, and
17 comfort. So we'll come and get you, and
18 you are to report Wednesday at 10:00 a.m.
19 I have a morning docket so if they were
20 to come in at ten, avoid the rush hour
21 and we will -- go to the Jury
22 Commissioner at 10:00 a.m. Thank very
23 much so far.

24 (The jury leaving the courtroom at
25 3:50 p.m.)

(Proceedings continued in progress
until January 12, 2011.)